

POLICY TITLE	DEBT MANAGEMENT POLICY
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REVIEW BODY	FINANCE AND AUDIT SUB COMMITTEE
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SCOTTISH HOUSING REGULATOR STANDARDS	<p>STANDARD 1 : The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users</p> <p>STANDARD 2 : The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.</p> <p>STANDARD 3 : The RSL manages its resources to ensure its financial well-being and economic effectiveness.</p> <p>STANDARD 4 : The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisations purpose</p> <p>STANDARD 5 : The RSL conducts its affairs with honesty and integrity</p>

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1. INTRODUCTION

Cathcart & District Housing Association Ltd (CDHA) is a registered social landlord, responsible for implementing this Arrears and Debtors Policy.

1.2

CDHA must ensure that performance meets the performance levels and targets required by CDHA's Business Plan and policies.

1.3

This policy sets out to ensure that tenants receive a consistent and unambiguous approach to rent arrears and debt recovery across the organisation. It also complements the comprehensive Rent Payment Strategy which links arrears management to service strategies for housing benefit maximisation, rent setting, collection and accounting.

1.4

In order to ensure consistency, there is no scope for local variation in this policy.

1.5

CDHA's Arrears and Debtors policy has six key elements:

- Preventive action
- Income maximisation
- Arrears management
- Legal action
- Debt recovery
- Allocations and arrears.

1.6

These elements are interdependent and essential. Taken together, they form a comprehensive policy, which seeks to reduce rent arrears and other debt, using legal action only as a last resort.

1.7

Responsibility for the implementation of this policy lies with housing management staff for:

Preventive action

Effective management of all tenancy debt

Processing Notice of Proceedings

Processing court action for Recovery of Possession

Eviction for Non Payment of Rent.

2. BACKGROUND

2.1

The prevention and effective management of rent arrears and other customer debt is crucial to the maximisation of resources available to Cathcart & District Housing Association to improve and maintain its stock. Measures to prevent debt also support tenants to sustain their tenancies and avoid the potential risk of tenancy termination. Effective management also ensures adequate response to the performance management requirements of best value and inspection.

2.2

Rent arrears arise when tenants do not pay the rent due by the date that it should be paid for tenancies. There are also a number of other debts associated with tenancies including:

Service charges

Insurance

Housing Benefit overpayments

Court costs

Rechargeable repairs and

Payments for one-off services

Former tenant debts.

2.3

Customers who have rent arrears may also have other debts. It is important that we have a consistent and corporate approach to rent payment and debt collection and to ensure that this has a very high priority with our customers and within our organisation.

3. PRINCIPLES, AIMS & OBJECTIVES

Principles

3.1

CDHA follows legislation and good practice principles in managing rent arrears and other debts.

3.2

We aim to reduce overall the level of debts owed to us. We seek to ensure that we recover rent arrears and outstanding debts from current and former tenants. We promote a corporate approach to the recovery and management of debtors' arrears.

3.3

We expect that all customers will fulfil their legal obligations to pay rent and other outstanding debts. Where such obligations are not met we have a firm but sympathetic approach. Many tenants in rent arrears may be facing multiple debts and complex personal and financial difficulties. We will ensure that we are aware of individuals' circumstances and take account of our customers overall debts when assessing what actions to take.

3.4

We provide services that adhere to our Equality and Diversity Strategy. We ensure customers are treated at all times with respect. We seek to understand our customers' needs and take particular account of the needs of vulnerable tenants. We will provide advice, information and support and refer people to other agencies where this is appropriate.

3.5

We put an emphasis on a pro-active, preventative approach rather than being focused mainly on reactive enforcement measures. We use early personal contact to discuss arrears and debts and use letters to confirm arrangements and actions.

3.6

We maximise the use of all available alternative remedies and use eviction and legal proceedings only as a last resort, once all other reasonable steps have been taken. We will seek to deduct any outstanding debts from any payments due to a debtor. Such deductions will conform with legislation relevant to that case.

3.7

We will ensure that staff understand our policy and operate in a consistent way.

3.8

We work in partnership with other agencies to sustain tenancies and prevent homelessness, where possible. Managing arrears effectively involves good liaison and joint working, with other support services such as the Department of Works and Pensions (DWP), Housing Benefit Services, money advice agencies, and social work and homelessness services. The Community Health and Care Partnerships (CHCP) and the Glasgow Advice and Information Network (GAIN) may also provide support.

Aims of the policy

3.9

The aims of the Arrears and Debtors Policy are to:

- Promote a culture of rent payment
- Provide information and support at all stages up to and including sign –up to ensure prospective tenants understand their financial obligations and how these will be met
- Interview and counsel new, existing and former tenants on their responsibilities to pay rent and other debts
- Provide a range of cost-effective rent collection methods that take account of tenant preferences and their ability to access services
- Give accurate and clear information on rent accounts and other debts to staff and tenants
- Ensure access to good quality advice on benefits, tax credits, managing debt, including referrals to accredited debt-counseling, advice, and money advice centres where they exist.
- Ensure that all our communications are clear, customer friendly and encourage contact
- Make personal contact with every customer as soon as arrears or other debts arise, or payments are missed, using a variety of methods to suit customer needs
- Take a staged approach in which action is targeted and recorded

- Negotiate realistic, affordable and sustainable repayment arrangements to clear rent arrears and other debts.
- Take appropriate action to recover former tenant arrears and other debts
- Where eviction is unavoidable, take action to safeguard vulnerable households.

4. EQUAL OPPORTUNITIES STATEMENT

4.1

This Policy complies fully with CDHA's Equal Opportunities Policy. We recognise our pro-active role in valuing and promoting diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures.

4.2

We will check our arrears and debtors policy and associated procedures regularly for their equal opportunity implications, taking appropriate action to address inequalities likely to result or resulting from the implementation of the policy and procedures.

4.3

We are committed to providing fair and equal treatment for all its stakeholders including tenants and will not discriminate against any on the grounds of race, colour, ethnic or national origin, language, religion, belief, age, gender, sex, sexual orientation, marital status, family circumstances, employment status, physical ability and mental health. Indeed we will positively endeavour to achieve fair outcomes for all.

5. SUSTAINABILITY

5.1

This Policy complies with CDHA's commitment to sustainability and takes account of wider economic and social impacts of the Policy in terms of individuals, households, local communities and the environment. In particular this Policy aims to promote and facilitate solutions to tenancy sustainment, through tenant support and information, which in turn contribute to the wider sustainability of local communities.

6. LEGAL & REGULATORY FRAMEWORK

6.1

In formulating and implementing this policy, we will comply with the Scottish Housing Charter requirements as they apply to this policy.

6.2

Legislation relevant to this Policy includes:

- Housing Act (Scotland) 2001 – Part 2, Chapter 1 – Scottish Secure Tenancy.
- Debt Arrangement (Scotland) Act 2002.
- Debt Arrangement (Scotland) Regulations 2003 (scheduled for introduction Nov 2004).
- Human Rights Act 1998 – Article 8 – proportionality - level of debt in relation to severity of actions taken against debtors.
- Housing (Scotland) Act 2010
- Housing (Scotland) Act 2014

The following Scottish Housing Charter outcomes that are particularly relevant to this Policy:

Outcome 2 - Communication: Tenants and other customers find it easy to communicate with their landlord and get the information they need about their Landlord, how and why it makes decisions and the services it provides.

Outcome 11 – Tenancy Sustainment: Tenants get the information they need on how to obtain support to remain in their home and ensures suitable support is available including services provided directly by the Landlord and by other organisations.

Outcome 13 – Value for Money: Tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay. This standard covers the efficient and effective management of services. It includes minimizing the time houses are empty, managing arrears and all resources effectively controlling costs, getting value out of contracts, and giving better value for money by increasing the quality of services with minimum extra costs to tenants, owners and other customers.

Outcomes 14 & 15 – Rent and service charges: Social Landlords set rents and service charges in consultation with their tenants and other customers so that: a balance is struck between the level of services provided, the cost of the service, and how far current and prospective tenants and other customers can afford them. Tenants get clear information on how rent and other money is spent, including any details of individual items of expenditure above thresholds agreed between landlords and tenants.

7. PREVENTATIVE ACTION

7.1

We recognise that the legal process for rent arrears and debt is lengthy and may not be cost-effective. That is why in the early stages, we aim to invest resources into preventive measures to prevent customers from building up arrears and debts.

We will take the following measures to try and prevent debt:

- Completing a financial assessment for applicants prior to an offer of tenancy to ensure affordability.
- Maintaining accurate rent accounting systems to ensure accurate monitoring of rent arrears.
- Advising new tenants of the terms of the tenancy and any outstanding rent and any other outstanding financial obligation to the tenancy.
- Issuing Housing Benefit forms at sign up and advising of actions that may be taken if the tenant goes into arrears.
- Ensuring that there is early intervention in rent arrears before a debt becomes unmanageable
- Making application for Direct Payments from DWP for rent arrears where possible.
- Providing as many options as possible for payment including standing orders, direct debits, payment by cheque/card and Allpay cards.
- Advising tenants of any changes to the rent payable promptly and in accordance with statutory notice periods.
- Carrying out home visits and financial assessments for all tenants who are in arrears.
- Checking with Housing Benefits Section to see whether there is an outstanding claim.
- Having in place efficient monitoring systems, which enable staff to quickly identify non-payment or reduced payment on a weekly/monthly basis.
- Issuing on an annual basis (and on request) a rent statement to tenants.

- Treating all joint tenants as jointly and severally responsible for rent arrears on the account.
- Making efforts to provide the tenant with advice and assistance on the tenants' eligibility to receive housing benefit and any other advice or financial assistance.
- Providing the tenant with information about sources of advice and assistance in relation to the management of debt.
- Making reasonable efforts to agree with the tenant a reasonable plan for future payments to the Association. Such a plan to include proposals in respect of future payments of rent and outstanding rent and other outstanding financial obligations of the tenancy.
- Generally to comply with all pre-action requirements as set out in Section 14(a) of the 2001 Act ("the pre-action requirements").

Welfare Benefit and Financial Advice

- Maximising benefit entitlement and debt counselling are considered vital in assisting tenants to maintain rent payments. The Associations in-house Welfare Rights and Money Advice services provide support to all potential and existing tenants, working closely with housing officers to increase the tenants ability to pay.
- The Association works closely with local authority Housing Benefit Departments/DWP to ensure that claims for tenants are processed efficiently and accurately.
- Welfare Rights Officers provide support to maximise income for tenants through Personal Independent Payments benefits, Housing & Council Tax Benefits, Discretionary Housing Payments and Universal Credit.
- Money Advice Officers will provide money and debt advice giving tenants support to reach realistic and manageable repayment arrangements with housing officers in the arrears recovery process. This may involve third party organisations eg. Insolvency practitioners.

7.2

Rent levels: In line with our Rent Setting Policy, we will set rents and service charges which are affordable, meet management and maintenance costs and provide long-term financial viability for CDHA.

7.3

Our rent structure aims to provide a fair and transparent rent and service charge structure for tenants. Rent reviews will always endeavour to address any anomalies in the existing rent structure, but will still seek to ensure that rents are affordable to those on low incomes.

7.4

Promoting a payment culture: We will seek to establish a positive payment culture amongst tenants and staff and ensure a visible focus on the payment of rent and other debt. This will include sections in the Tenants' Handbook; organising publicity campaigns around the theme of rent payment, debt and benefits; and ensuring that pre-tenancy, sign-up and settling in visits emphasise rent payment.

7.5

Payment dates: In line with the CDHA Tenancy Agreement, tenants are required to pay their rent and other charges in full on or before the 28th of the month. We also operate a monthly rent payment cycle. Tenants can pay on weekly, fortnightly, four weekly or monthly basis, to suit their particular circumstances. However, payment should always be made in advance.

7.7

Payment methods: We provide a wide range of payment methods for rent and other debts, to meet the needs of customers. Our payment methods include:

- Standing Orders
- By Bank Giro Credit at any bank
- Direct payment from Housing Benefit
- Direct payment from Dept of Works and Pensions (deductions from Benefit).
- Allpay
- Card payment in person or by phone

8. MAXIMISING TENANTS INCOME

Housing Benefit

8.1

Housing Benefit is a significant element of CDHA's rental income. Around 70 per cent of tenants are in receipt of full or partial benefit. We aim to ensure that all tenants submit claim forms accurately and on time. Staff will also encourage tenants to agree direct payments of Housing Benefit to CDHA, to ensure that rent is paid.

8.2

Building and maintaining effective relationships with the local Housing Benefit Centres is also essential to ensure that housing benefit is processed on time.

8.3

Housing Benefit checks will also be a key feature in arrears interviews and home visits.

8.4

GCC will send Housing Benefit Direct payments electronically to allow CDHA to credit each account as soon as the schedule is received. Housing Benefit Direct will be allowed where: A mandate from the tenant is in place the tenant has 8 weeks or more arrears outstanding On grounds that payment to the landlord is in the interest of the tenant.

8.5

GCC and CDHA have regular liaison meetings and monitoring arrangements to ensure commitments are delivered within agreed timescales. Joint training will take place between Housing Benefit and CDHA staff to improve understanding of processes.

8.6

Good information and advice lies at the heart of our service. In order to maximise tenants' incomes, we employ Welfare Rights Officers (WROs). A key part of that role is to ensure that tenants receive Housing Benefit, welfare benefits and tax credits, where they are eligible. WRO's also request backdated payments, Discretionary Housing Payment Awards and assist our staff to tackle both current and former tenant overpayments.

8.7

We will also seek to ensure that all front-line staff are able to provide basic advice on Housing Benefits, while the specialist Welfare Benefits Officers providing advice on the full range of Benefit entitlement

8.8

We will always seek to use our own Welfare Benefits Officer in the first instance. However, we will also work in partnership with other agencies offering benefits and debt/money/housing advice and information services.

New Tenants

8.9

Tenancy assistance and counseling will be offered to all prospective tenants. This will involve among other things:

Provide pre tenancy advice, with information on the rent and service charges, the tenants' responsibility to pay and when and where rent payments can be made

Ensuring that front-line staff provides basic advice to existing and prospective customers on Housing Benefit eligibility, the importance of completing a claim form and keeping Housing Benefits informed of changes in circumstances

Check Former Tenant Arrears and other debts and where necessary agree a repayment plan.

8.10

Where an offer is accepted the new tenant will be assisted to complete the Housing Benefit Claim Form, which will be dispatched to the Housing Benefit Centre within one day of completion or where possible completed on line to ensure that effective date is the same as the date of entry and any accompanying documentation is also included.

Settling in visits

8.11

We aim to carry out a settling in visit with new tenants after two weeks of the date of entry. This visit will ensure that tenants have a clear rent account, have claimed any benefits to which they may be entitled and understand their rent payment options. The visit enables the early identification of any emerging problems and referral to Welfare Benefits Advisors or support agencies, where necessary.

Existing Tenants

8.12

We will publicise the Housing Benefit Scheme in newsletters and our offices and cooperate with GCC publicity and take up campaigns. We will ensure a supply of Housing Benefit Forms at our local offices and our staff will promote Housing Benefit direct payments.

9. ARREARS MANAGEMENT

9.1

CDHA provides a fully integrated Housing Management System, which holds the records for rents and arrears case management, allocations, void management, estates, customer services and property. All payments to rent accounts or changes to tenancy are automatically reflected in arrears balances. The arrears management system can also indicate where there are 'technical' arrears due to payment dates for Housing Benefit.

9.2

The Kypera system is designed to assist staff to manage an arrears caseload. It therefore provides information by Housing Officer area to facilitate monitoring, early action and ease of updating. Its key features can be summarised as follows:

Interfaces with Rents and Tenancy Management Systems

Maintains a payments history for each tenant

Provides easy to update with stage of action

Monitoring prints to assist operational control

Provides operational, management, and performance data.

Continuous notes page to record all conversations and dealings in relation to each case

9.3

Housing Officers are responsible for arrears management and providing an arrears counselling service to tenants. They are also responsible for arrears recovery and whilst an integrated arrears management system can help staff meet that responsibility it cannot replace the early and continuous contact between them and their tenants that a successful arrears recovery process demands.

9.4

Prompt action when arrears are small is essential. This will prevent arrears escalating and reinforce to the tenant that rent arrears will be dealt with as a matter of priority. Our emphasis will be on close personal contact on rent payment and debt. The purpose of this early personal contact is to establish reason for non-payment and reach agreement on how this will be resolved. The aim is to agree an appropriate and affordable repayment arrangement, which takes into account the tenants' individual circumstances and other debts.

9.5

We will use a range of methods of personal contact, to suit customer needs including:

- Interviews at the Association office
- Home visits (including out of hours)
- Telephone contact by our staff during office hours and in the evening.
- Email where appropriate
- Text messaging where appropriate. This service is being introduced as we build up data base of mobile numbers

We will also maintain personal contact whilst the tenant remains in arrears, to encourage regular payments and ensure that the tenants' circumstances have not changed.

9.6

Written communications will be used to record formal steps in the process and confirm actions and repayment agreements. It is important that tenants are fully aware of the legal implications of failing to pay rent or to respond to our efforts to pursue arrears. Any contact with any tenant in arrears, in whatever form, should be noted in the "notes" page within the Kypera system.

9.7

It is critically important that customers understand the possible serious implications of failing to pay rent and other debts. We will use interpreters, lip speakers and sign language where customers need this. Rent and debt collection communications will be written in plain language and as clearly as possible. We will also provide letters in different languages, large print, easy read, Braille or other formats if requested.

9.8

We will send all our tenants a rent statement at regular intervals, whether they are in rent arrears or have clear accounts. This will ensure that tenants understand that we monitor accounts and be aware of the status of their account.

9.9

Our focus at the early stages of arrears recovery is as follows:

- Establish contact and build up an effective relationship with the tenant
- Conduct a full arrears counselling interview with the tenant, in private at home or at the office
- Establish the reasons for non-payment
- Carry out Housing Benefit check
- Seek agreement for direct payments
- Make a formal arrangement to pay signed by the tenant and a copy issued to them
- Advise tenant of consequences of failing to adhere to this arrangement.

- Confirm the strict monitoring arrangement that will be put in place to confirm adherence
- Check for and note any qualifying occupiers should further action be required

9.10

We will adopt a firm but sensitive approach to arrears recovery. Visits to tenants as soon as arrears arise may reveal other issues such as multiple debts, illness, harassment or relationship breakdown. Where tenants are vulnerable specialist support may be required.

Debt counseling services, community or voluntary groups, Social Work Services and/or mental health teams, can provide advice and support to both tenant and housing officer when such a need is identified. Such support may also help a tenancy survive. Where external advice or support is required, we are able to provide information on where and how to access such support. Where possible, staff should assist in arranging access to these support services.

9.11

Where a tenant is more than eight weeks in arrears and receives Income Support or Job Seekers Allowance local staff can make application to the Benefits Agency for Arrears Direct Payments on the tenant's behalf. Tenants will be advised if an application is refused or similarly if an existing direct payment is cancelled. Staff will also counsel tenants in this category on their potential to also pay a small additional amount to reduce arrears. This would be entirely voluntary.

9.12

Our staff should also consider other alternatives to legal action, where appropriate. These include:

- Voluntary Wage Deduction
- Agreement to Standing Order or Direct Debit.

10. LEGAL ACTION

Notice of Proceedings for Recovery of Possession (NOP)

10.1

Should attempts to make contact be ignored or the tenant fails to make or adhere to an arrangement, we will issue a Notice of Proceedings for Recovery of Possession (NOP). An NOP should only be requested where all possible arrears management actions have been taken but where the arrears are still rising.

10.2

Prior to requesting a NOP, our staff must complete the following checklist:

- Housing Benefit (if/when applicable) has been secured but arrears are still increasing
- Checks have been carried out with SWD and other relevant agencies to assess vulnerability
- Where relevant, previously agreed support packages have failed or are still in place but are not affording the required benefit.
- Meetings and home visits with tenant have taken place and are recorded
- Agreed actions have not been implemented and payments have not improved
- Persistent attempts to meet or make contact with the tenant have not been successful
- Agreed and recorded payment arrangements have not been maintained
- Welfare Benefit Officers have met with the tenant, meetings recorded and actions implemented

10.3

To comply with the provision of the Housing (Scotland) Act 2001 landlords must serve the notice on the tenant and any qualifying occupiers of the house. Our staff must therefore make inquiries to establish, so far as is reasonably practicable whether there are any qualifying occupiers of the house, and if so, their identities. Qualifying occupier means:

- a) A member of the tenant's family aged at least 16 years
- b) A person assigned or sub-let the house with the landlords consent
- c) A person whom the tenant has, with such consent, taken in as a lodger

Identifying "qualifying occupiers" is best done at first contact and can be checked at future contacts.

Recovery of Possession

10.4

Where arrears continue to escalate and the tenant has persistently failed to respond to correspondence, make and/or keep to financial arrangements and to engage with housing officers, they will, as a last resort request that CDHA legal team raise proceedings for recovery of possession of the house. A request to book cases into court should only be made where we are serious about re-possessing the house and suing for payment.

10.5

Our staff must ensure that we have collected full information about the tenants' circumstances. In particular, they must indicate whether:

- There are children or dependents in the household aged 16 or under
- The tenant or other household members is aged 60 or over
- The tenant or other household members have a declared and identified vulnerability or disability (physical and/or mental)
- Formal joint discussion with CHCP and other relevant agencies have taken place
- The Committee has approved proceeding to court and seeking to recover property and debt.

10.6

Our staff must adhere to the Joint Statement of Best Practice on Sustaining Tenancies and Preventing Homelessness. This states that they should make formal contact with Community Health and Care Partnerships (CHCPs) to request a joint discussion at this stage. The joint discussion is a meeting between the CHCP, the landlord, the tenant and other appropriate services. In all cases, tenants must be advised of their right to be accompanied by an independent advocate. The purpose of the discussion is to explain to the tenant the seriousness of the problem, explore the causes and develop a plan of action to prevent eviction. The joint discussion will also assess the impact of eviction on children and other vulnerable family members. The local staff must notify the CHCP if the arrangements made breakdown.

10.7

The action would be raised under Ground 1, Schedule 2, Part 1, of the Housing (Scotland) Act 2001:

'Rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy has been broken.'

10.8

The landlord has to convince the Sheriff that the ground is established and that it is reasonable to evict. The need for clear and detailed records should be kept at all stages of arrears cases,

as this is vital to proving reasonableness. This requirement must therefore inform how we engage with the tenant while legal action is being taken.

10.9

In addition to the summons, tenants should be referred to government/Shelter leaflets on how to avoid eviction. This aims to guide the tenant through the court process, and to encourage an offer of repayment to be made to the court.

10.10

No reasonable offer of repayment will be refused prior to the first calling of the case. Continuances or sists will be acceptable where a significant offer or payment has been made in court. Installment Plans are acceptable at any stage of recovery action up to and including the first calling in court, and should reflect the tenant's ability to pay. Effective arrangements will be in place to ensure that staff is involved in decisions, including cases which have previously been to court.

10.11

We will also seek Decree for Payment and will use all means of available diligence thereafter, including arrestment of wages or bank accounts.

Prevention of Eviction

10.13

Legal action for recovery of possession of the house for non-payment of rent is a necessary element of the arrears recovery process. If legal action is pursued and non-payment continues it must be recognised that eviction is the likely outcome. We have no desire to evict but will do so as a last resort to reflect the interests of tenants who do pay their rent. It is important that staff continue to maintain personal contact with the tenant and encourage them to make rental payments and keep to their agreed repayment arrangements.

10.14

If arrears continue to increase a decree for eviction will be sought. This will only take place when we are serious in our intention to evict the tenant for non-payment of rent, because all else has failed.

10.15

If an eviction decree is granted, the staff must advise the CHCP Welfare Benefits Office of the proposed eviction date by letter or e-mail and provide any new additional information. The CHCP may request a further joint discussion at this stage if there has been a significant change in the families' circumstances. This joint discussion must be held before the eviction date.

Role of staff

10.16

Authorisation to instruct a Notice of Proceedings will rest with the Director. Committee approval authorising court action to seek and enforce decree must be granted before proceeding to court. Decisions on actual eviction must be on the basis of a minuted Committee decision.

10.17

Once a Sheriff has granted decree the eviction must take place. However, the committee may decide to grant a new tenancy. This should only take place if:

The tenants' circumstances have changed significantly or

The arrears have been fully repaid.

10.18

If the eviction is granted, staff must formally notify the CHCP and the local Community Casework team as soon as the decision is made. The tenant should also be advised to discuss their options with the Community Casework team. This will give the Community Casework team advance notice to avoid the household becoming homeless.

11. DEBT RECOVERY

11.1

Debts encompass all monies owed to CDHA by current or former tenants, with the exception of current rent charges for tenancies. There is however a strong link between the debts and rent arrears policy as a debtor could owe multiple debts.

11.2

The basis for the Debtors Policy is the premise that all debts to CDHA by an individual are taken into account before actions are initiated for recovery. Recovery should take place on a priority basis rather than have several recovery processes in operation at the same time. All housing debt is top priority for collection. We will seek to recover debts in the following order:

- i) Current Rent Arrears (including service and insurance charges)
- ii) Court Costs (to clear court orders)
- iii) Former Tenant Debts
- iv) Repairs outstanding
- v) Other Debts

11.3

Taking prompt action when a debt first arises is essential to prevent debts becoming a long-term liability. The sooner the debtor is contacted and recovery starts, usually by arrangement, the higher the probability of recovering the total debt.

11.4

We will seek to achieve full cost recovery of the debt demonstrating value for money in doing so and will explore alternative routes which may include, for example, raising actions for Small Claims.

Former Tenant Debts

11.5

Former tenant debts occur when a tenant is no longer a Scottish Secure Tenant of the property where the charges applied, having ended their tenancy through the following events:

- Eviction
- Termination of Tenancy
- Assignment
- Death (through the winding up of deceased's estate)
- Transfer
- Abandonment.

11.6

Former tenant arrears will be pursued timeously and vigorously. If the former tenant is known to be in employment and ignores requests for payment an action may be raised at Small Claims for recovery.

11.7

The following factors will be taken into account when pursuing recovery for former tenant debt:

The reason for termination (particularly where the tenant has died or been taken into residential care)

The relationship between current and former tenant arrears so that the recovery of former tenant arrears does not adversely affect that of current arrears

Categorise former tenant arrears so that those pursued can realistically be recovered

The kind of legal action that should be taken

Take other concerns into account.

Write Off

Despite all efforts to recover outstanding debt to the Association, there are circumstances which prevent recovery action or are uneconomic to pursue. Debt in the following circumstances will be considered for write off:

- The tenant is deceased
- The tenant is admitted to long term hospital, residential care or institution.
- The tenancy has ended with no forwarding address and their whereabouts cannot be traced.
- The age/level of debt – 5 years/£50 threshold and debt is prescribed under the Prescription and Limitation (Scotland) Act 1973.
- The tenant has been declared bankrupt or has been sequestered.

The Housing Management Sub Committee will consider writing off current and former tenant arrears and credit balances and the write off will be reported in the Association's Annual Accounts.

Rechargeable Repairs

11.8

Rechargeable repairs occur when a repair is reported and identified as rechargeable to the tenant. The process for selecting which repairs fall into this category is specified within the Repairs and Maintenance Policy. Clauses 5.15 and 5.16 of the Tenancy Agreement list tenants' responsibilities with regard to repairs and maintenance. These can be summarised as follows:

- Tenants must report to the Association as soon as reasonably possible, any damage to the house, the common parts or loss or damage to Association property.
- 'Tenants are responsible for taking reasonable care of the house... (and) keeping the house in a reasonable state of cleanliness.'
- 'CDHA is committed to recovering the costs of repairs required because of the wilful or negligent actions of its tenants or others.'

Categories

11.9

The above lists of debts can be divided into three categories for recovery:

- Current CDHA Tenants – Every effort to agree an arrangement with current tenants who owe former tenant or other debts should be made. Such an arrangement should clear the debt and be reconfirmed at the time the tenant commences their new tenancy
- Former Tenant - Where the forwarding address of the former tenant is known (i.e. transfer, assignation, Right to Buy and death (estate of deceased))
- Former Tenants – Where the forwarding address of the former tenant is not known (i.e. abandonment and eviction and no forwarding address found after traces conducted).

11.10

For current tenants and former tenants where the address is known, an invoice should be raised for the outstanding debt using the appropriate system. Where the forwarding address of the former tenant is not known, the invoice should be issued to the last known address.

11.11

We will try to trace debtors using a number of means including:

- Housing Officer knowledge
- Contacting specified next of kin if available
- Contacting services e.g. social services, health visitors, police etc. (requesting a forwarding address or that they forward a letter on your behalf if they know where the debtor is)
- Use of a tracing agency to find a debtor, taking account of the cost and level of debt.

11.12

A debt can only be pursued through the Courts if it is less than five years old. After five years a debt becomes prescribed and is no longer recoverable, provided that the debtor has made no payments towards the debt during that period, thereby interrupting the period of prescription and unless court action has been raised in respect of the debt. If all efforts to trace the debtor have failed, consideration should be given to writing off the debt in accordance with our Policy on Debt Write Off.

Debt Recovery Process

11.13

Before an action can be taken against a debtor, it is essential that all relevant information is extracted from files and systems and fully collated to underpin the action. The following principals apply:

Following the issuing of the invoice, if at any time thereafter an arrangement that is acceptable to us can be agreed, then further action on the debt should be suspended unless the arrangement is broken. An acceptable arrangement is one that clears the debt

Every effort should be made to agree an arrangement that is both practical and sustainable taking account of the debtor's income and expenditure commitments

The involvement of the Welfare Benefit Advisor should be considered where their advice and assistance may aid in the assessment of an appropriate arrangement if outstanding Housing Benefit issues are found

Debtors who make an arrangement to pay should sign a statement of confirmation that they agree to the arrangement and a copy of the arrangement should be given to them for their own information

Clear advice on the consequences of not adhering to the arrangement should be given to the debtor, including the importance of maintaining regular contact with the relevant officer so that any changes in circumstances can be taken into account

If a debtor who has agreed an arrangement also falls into rent arrears with their current tenancy then every effort should be made to enable them to repay the priority debt 'e.g. Rent'. This may involve a temporary reduction in the agreed repayment of the other non-rent debts or in fact if appropriate a temporary suspension of recovery on the other debts to facilitate the repayment of the priority debt

All arrangements must be monitored and action taken immediately on a breach of the arrangement conditions

If an arrangement is broken, the outstanding amount should be recovered by taking appropriate action. This may in certain circumstances involve a further visit, interview or letter before proceeding to the issuing of a final reminder

If an arrangement is made at final reminder stage then broken, the case should be referred to the CDHA's Legal advisors, who will take steps to recover the outstanding debt.

12. ALLOCATIONS AND DEBT MANAGEMENT

12.1

If an applicant (including waiting list, homeless and transfer applicants) being considered for a property, has any outstanding rent arrears or other outstanding arrears, then Section 20 (2) (ii) of the Housing (Scotland) Act 1987 as amended by Section 10(4) of the Housing (Scotland) Act 2001, applies. This means that if the outstanding arrears are less than one month's liability, then those arrears will not stop an offer being made. It is also reasonable for a landlord to refuse to house an applicant who has significant rent and service charge arrears or other liabilities related to the previous tenancy (e.g. rechargeable repairs). An offer in such circumstances will only be made where the applicant has:

Made an arrangement to pay the debt
Kept that arrangement for at least three months
Continues to make such payments.

12.2

Where arrears on an account have arisen through no fault of the applicant e.g. by a delay in Housing Benefit payments for which the applicant is not responsible, the applicant will be defined as having a clear rent account for the purposes of his or her application.

12.3

We will take the following action for different groups of housing applicant:

'Transfers within CDHA stock' - an arrangement to repay the debt should be in place prior to the transfer being approved. Such an arrangement should have been kept for at least three months and be reconfirmed at the time the tenant commences their new tenancy.

'Section 5 Homeless Referrals' - where the debtor has been referred back to us for permanent accommodation an arrangement to repay the debt should be agreed at the earliest opportunity available (e.g. as soon as the application for housing is accepted and live). As above, such an arrangement should have been kept for at least three months and be reconfirmed at the time the tenant commences their new tenancy.

'Waiting List Applicants' – debtors may appear as waiting list applicants and as above an arrangement to repay the debt should be agreed at the earliest opportunity available (e.g. as soon as the application for housing is received). As above such an arrangement have been kept for at least three months. The debt and payments should be checked prior to any offer and the arrangement reconfirmed at the time the tenant commences their new tenancy.

13. PERFORMANCE MONITORING

13.1

In order to judge the success of this policy, we will put in place a system which monitors and measures both corporate and local performance.

13.2

The Association shall maintain internal information systems which are based around ensuring effective monitoring, control and reporting of its rental income.

The Association will monitor rental income and rent arrears performance using both regulatory and local performance indicators (KPI's).

The Social Housing Charter indicators are as follows:-

- Indicator 24: Percentage of court actions initiated which resulted in eviction and the reasons for eviction
- Indicator 30: Rent collected as a percentage of total rent due in the reporting year

- Indicator 31: Gross rent arrears (all tenants) as at 31st March each year as a percentage of rent due for the reporting year.
1. The monthly report to the Committee will provide the relevant information pertaining to the requirements of the Social Housing Charter, Annual Return on the Charter (ARC)
 - The number of court actions initiated each month
 - The number of properties recovered for non-payment of rent
 - The number of properties recovered for anti-social behavior
 - The number of properties recovered for any other reason
 - The total amount of rent collected each month
 - The total amount of rent due to be collected each month
 - The total value of gross rent arrears at the end of each month
 2. All of the above information is contained with reports presented to Committee on a monthly basis. This information is then reported annually to the Scottish Housing Regulator through the ARC, Annual Return on the Charter.

14. POLICY REVIEWS / CONSULTATION

14.1

We will review this policy every three years. More regular reviews will be considered where, for example, there is a need to respond to new legislation/policy guidance. Reviews will consider legislative, performance standard and good practice changes.

14.2

We have developed this policy in consultation with tenants and other service-users and account has been taken of representations made. Similar consultation will take place for all proposed policy reviews.

We will publish a summary of this policy and it will be available on our website. A copy of the full policy is available on request.

15. CUSTOMER SERVICES

Confidentiality

15.1

All information given by customers in relation to this policy will be treated as strictly confidential and will not be discussed with third parties without their permission. We will comply with the Data Protection Act 1998 in this regard. Individual cases referred to Management Committees should be treated in the strictest confidence. Information should be provided in such a way that it is not possible for the identities of individuals to be revealed.

Customer Satisfaction

15.2

We are committed to a high level of customer satisfaction in the delivery of this Policy, seeking continuous improvement. Satisfaction with the full range of services we provide will be measured regularly, including the effectiveness of the objectives of this policy, and results will be disseminated to tenants and other service users.

Complaints

15.3

Our aim is to get it right first time, however, we have published a Complaints Policy. This procedure can be used where there is dissatisfaction with this policy or its operation. A summary of the Complaints Policy and procedure is available as a separate document from our offices. As with all of our policies, this can readily be made available on tape, in Braille, in large print or translated.

15.4

Staff and individual Management Committee members should at all times declare an interest in arrears cases relating to close relatives. They should under no circumstances be involved in such cases and should refrain from accessing computer or physical files or participating in any decisions made.

16. LINKS WITH OTHER POLICIES

This policy links other policies and strategies on homelessness, tenancy sustainment, wider action and sustainability, including:

- Allocations Policy: section 4.12 'If an applicant, being considered for a property, has any outstanding rent arrears or other outstanding arrears, then Section 20(2) (ii) of the Housing (Scotland) Act 1987 as amended, applies. If the outstanding arrears are less than one month's liability, then those arrears will be disregarded. However, if the outstanding arrears are more than one month's liability, then an offer of housing will be made if an arrangement to clear the arrears has been made and adhered to, normally for a period of at least three months.'
- Service Delivery Policy: includes service standards, responsive services that meet customer needs, high quality services delivered by skilled and trained staff.
- Complaints Policy: complaints may be received in respect of the validity of debts raised (challenging arrears and rechargeable repairs for example) and the implementation of this policy.
- Decoration and Compensation for Improvement Policy: decoration allowances and compensation awards may be used to offset arrears and other debts.
- Debt Write-Off Policy: contained within CDHA accounting policies.
- Equality and Diversity Strategy: to ensure that all customers are treated fairly and take account of individual needs and requirements.
- Housing Information and Advice: CDHA will adopt the National Standards for Housing Information and Advice and apply these to rent and debt cases.
- Rents and Service Charges Policy: we set rents and service charges which are affordable to those in low paid employment, meet management and maintenance costs and provide long-term financial viability for CDHA.
- Repairs and Maintenance Policy: rechargeable repairs.
- Other key documents:
CDHA – Scottish Secure Tenancy Agreement: This covers service charges, tenancy associated charges, tenant's responsibility, repairs recharges, support services charges.