

RENT ARREARS PROCEDURES

1.0 PRINCIPLES AND GOOD PRACTICE THAT WE WILL ALL FOLLOW

- Communication with tenants, written or verbal, will be clear and courteous. Tenants will be clear about their responsibilities for rent payment, how to fulfil them and the consequences if they do not.
- We will find out if a tenant prefers or needs information in a particular format or if they have communication support needs e.g. BSL interpreter. This information will be noted on the house file and relevant computer screens and acted on.
- We will find out from the tenant if they have particular needs which would be better met by another agency or staff member e.g. support with managing money or correspondence. We will ensure tenants are referred to or have access to welfare benefits and debt counselling services.
- We will respect the tenant's right to confidentiality about their affairs and will not discuss these with external parties or cause them to become known. The Association may seek permission to share prescribed information with third parties in order to obtain additional support for the tenant in managing money or debt e.g. housing benefit, social work, advice organisations.
- Where we are obliged to share information in order to pursue an action or to protect the tenant or other members of their household, the tenant will be advised in writing, and by their preferred communication method, of the intention to do so. For example, where an eviction is planned, of a household, involving children, the Association will inform Glasgow City Council Social Services.
- We will deal with all arrears cases in a fair, consistent and comprehensive way.
- We will meet the pre-action requirements for all notices of proceedings.
- In pursuing arrears and legal actions, where this is necessary, the objectives are to promote discussion, come to a repayment agreement and to recover monies due to the Association. Eviction is very much the last resort.
- **We will request and keep all correspondence in writing (e-mail/letter) from our Solicitors**

2.0 RENT ARREARS PREVENTION

From the outset, tenants and prospective tenants need to know that they are expected to take responsibility for rent payments and to keep a clear rent account

2.1 Pre-Tenancy Advice & Support

Actions required	Staff lead
<p>It is essential that prior to the start of a tenancy the new tenant is given full and accurate advice and information in relation to their responsibilities for the tenancy and payment of rent.</p> <p>Housing Staff must ensure that, when issuing an offer (Appendices) of housing they also:</p> <ul style="list-style-type: none"> ➤ advise the prospective tenant of the rent charge for the property; ➤ advise the new tenant of the information that they should bring with them when they come to sign for the property. This information should include: <ul style="list-style-type: none"> • Proof of their income if wishing to claim Housing Benefit, date of Universal Credit (UC) payday (if applicable) • Proof of Photographic ID • Right to Reside • Entitlement to Child Benefit • Bank details if wishing to pay by Standing Order/Direct Debit <ul style="list-style-type: none"> • A month rent in advance where an applicant does not qualify for Housing Benefit. 	HO

2.2 At tenancy sign-up

Actions required	Staff lead
<p><i>Housing benefit application and income maximisation</i></p> <p>On acceptance of the tenancy, Housing Staff must assist the new tenant to complete the Housing Benefit Application Form or UC claim and outline the implications of non-payment of rent.</p> <p>If in receipt of Housing Benefit the form will be checked and documents verified by Housing Staff, in line with the HB verification framework. This opportunity will also be used to consider possible entitlements to benefits</p>	HS

and tax credits that the new tenant may not receive and to signpost the tenant to Welfare Rights Officer.

Complete New Tenant Profile

Housing Staff must also complete a copy of the Tenancy Profile (Appendices). This combines information relating to the tenant(s) with a checklist of the advice given to them at the time of the sign up.

It is important at this stage to ensure that full information relating to members of the household is recorded in the personal information section of the Tenancy Profile. This is in line with the requirements of the Housing (Scotland) Act 2001 on the Scottish Secure Tenancy and advice to qualifying occupiers about Notices of Proceedings (See also Section 4.1)

Where the tenant indicates on this checklist that they are involved with Social Work (or a CPN or OT), Housing Staff will ask for information about any children within the family:

- Are any children in this household/family on the child protection register?
- Are any children in this household/family looked after or accommodated?
- Are any Children in this household/family disabled or affected by disability?
- Are any children in this household/family currently allocated to a Social Worker for reasons other than the above?

If the answer to any of these is yes, the staff member should ask the tenant if they know the name of their social worker and seek their permission to make a courtesy call to the relevant social worker. (This may require a call to the duty Social Worker to find out which member of the Social Worker Team is assigned to the case). It should be emphasised that the reason for this is to ensure that CDHA takes any action it needs to support the accommodation of the child. CDHA has a duty under the Children's Act to make sure children are considered in making decisions about legal action, if this ever became necessary.

Early contact is aimed at facilitating joint working with Social Work if the tenant subsequently gets into rent arrears (or if other serious tenancy problems arise). If the tenant does get into arrears a joint visit may be arranged with the relevant Social Worker.

Complete Advice Checklist on Tenant Profile

Housing staff must complete in full the Advice Checklist Section of the Tenancy Profile by ticking each box as confirmation of the task being

complete. Furthermore, staff should specify the action taken in respect of the following issues:

- Confirmation of the tenancy agreement being completed and signed and a copy issued to the tenant.
- Confirmation that the Housing Benefit form has been completed. The date the form was sent to Customer Services must be noted and details of the tenants income must be detailed on the form and confirmation of this sent;
- **Verify no ongoing deductions from HB are being made**
- If further information is required for Housing Benefit, this must also be detailed on the computerised tenancy records;
- An initial assessment of housing benefit can be undertaken using the Housing Benefit Calculator. This may not always be possible but attempts must be made to give the tenant guidance on the amount of rent they are due to pay. If tenant in receipt of **UC** ensure Housing Element will be claimed, note pay date of UC and check eligibility of APA (alternative payment arrangement)
- Tenants will be made aware of the options and encouraged to make regular advance payment by:
 - direct debit (only current accounts)
 - Allpay payment card
 - Allpay app
 - Callpay and website
 - mandated direct payment of HB or UC.
- The payment method & frequency must be agreed at the sign-up stage and noted. The staff member must complete any necessary paperwork for the arrangement of payment by standing order or direct debit and forwarded to the appropriate service; Swipe Card issued.
- At the sign-up stage, the staff member must make clear the tenants' obligations to the Association, and in particular the need to maintain regular rent payments **in advance**. The staff member must also make clear the sanctions available to the Association should the tenant fail to make regular rent payments.
- The tenancy profile will also record any particular communication needs e.g. large print letters, translation services. The HO will ensure this information is flagged on the house file and computerised tenancy

<p>records.</p> <p>The Tenant and the Housing Officer (HO) must both sign and date the tenancy profile form in order to confirm their respective agreement with the information detailed on it.</p> <p>Where any information has not been issued to the tenant this must be indicated on the form with an explanation as to why the information has not been discussed.</p> <p>The HO must then place the Tenancy Profile in a central file until the new Tenancy Visit has been undertaken.</p>	HO
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2.3 New Tenancy visit and during the tenancy

The second stage of the New Tenancy Profile is the new tenancy visit.

Actions required	Staff lead
<p>This must be completed within 6 weeks of the tenancy commencement date and the visit checklist must be completed in full. Both the tenant and the HO must sign the Tenancy Profile on completion of the visit.</p>	HO
<p>Prior to the Housing Officer (HO) conducting the New Tenancy Visit, they must check the Homemaster System and check the progress of any claim for Housing Benefit/UC. If there are any outstanding 'proof of income' requirements, the HO must attempt to obtain this information during the new tenancy visit.</p>	HO
<p>The HO must, on return to the office, verify the rent payment method (direct debit) and follow up any issues that were highlighted as a result of the new tenancy visit. The action taken as a result of any follow up work must be noted on the form and signed and dated by the HO. The original form must be placed in the central file and annually the HO will remove and scan onto Homemaster.</p>	HO
<p>In instances where the HO does not succeed in contacting the tenant, they should assess whether the property appears to be occupied and add an appropriate note to the Homemaster diary, follow NTP procedures. The HO will record on Homemaster when the NTP is complete.</p>	HO
<p>At various points during a tenancy, HO will be notified of, or come to be aware of, a change in the tenant's circumstances. At each change in circumstance, the HO should consider whether this may have an impact on the tenant's further entitlement to housing or other benefits. Where this is possibly the</p>	HO/WR O

case, the HO should advise the appropriate Welfare Rights Officer (WRO) so that advice can be offered.	
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3.0 ARREARS CONTROL

With the guidance of the Housing Maintenance Manager (HMM), the HO will hold the primary responsibility for carrying out the arrears processes and procedures detailed in this and subsequent sections.

3.1 Initial identification and early action

Actions required	Staff lead
<p>Regular Monitoring The Housing Officer will regularly monitor all rent accounts to identify new arrears cases and monitor established arrears cases and take prompt action at all times. This process must be undertaken at least on a weekly basis. If there are arrears on the account, the relevant arrears code should also be input. Once the end of period has been completed the HMM/HO will store the various reports and will be saved in the Rent Arrears folder on the One Drive in Housing Management. The HO should review the reports within 3 working days of the reports being produced.</p>	HO/HMM
<p>Sending a first arrears letter Early action is vital. The HO must notify all tenants with 2 weeks or more arrears, in writing, by phone or in person, that rent payment is overdue. However this is after checking:</p> <ul style="list-style-type: none"> • the tenant's regular payments method (in which case a note of this should be displayed on Homemaster). • whether HB or UC has been applied for, and whether all the necessary information has been provided in order that the claim can be assessed. 	HO
<p>In these situations, the HO will decide whether or not it would be appropriate to issue the first arrears letter, AR1 (Appendices). For example, where the tenant has not provided the required income information or no Housing Benefit claim has been made, the first arrears letter will be issued.</p>	HO
<p>After the first arrears letter, AR1, has been issued, the HO will monitor the arrear to confirm whether due rent has been paid.</p>	HO
<p>Arrears visit or second letter Where the arrear remains static, or increases, after a period of seven days the HO will visit the property. If the tenant is at home the HO should carry out an interview to endeavour reasons for non-payment and agree a repayment arrangement. A Payment Plan should be completed (see section 3.2). If the tenant/s is not at home a post card should be left. The time that the card is left must be recorded in the summary field in the diary entry in SDM. Should</p>	HO

<p>the tenant fail to respond within seven days to the visit, the second arrears letter, AR2 (Appendices) should be sent.</p>	
<p>The HO must ensure that all letters issued to tenants are posted within two days of the date indicated. This will ensure that tenants receive accurate and up-to-date information regarding their rent account.</p>	

3.2 Arrears recovery processes

<p>Actions required</p>	<p>Staff lead</p>
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<p>Contact with the tenant Personal contact is the most effective arrears recovery approach. Where a first, or second, arrears letter (depending on the circumstances) has not elicited payment, every effort must be made to establish and maintain personal contact throughout the debt recovery process. The HO, supported by others as necessary, should use a range of methods, including telephone calls at home or place of employment, home visits and office interviews in addition to letters. A variety of techniques may be used to gain the tenant's attention to the problem.</p> <p>Occasionally staff should attempt evening visits with tenants about their rent arrears. These visits should be aimed at</p> <ul style="list-style-type: none"> - Pre-arranged visits to those tenants who are unavailable during the day - Cold calling people who are not responding to previous contact attempts <p>Record keeping All housing staff must keep comprehensive records of action taken at every stage of the arrears recovery process. In particular, all contact, and attempted contact, with the tenant must be fully recorded irrespective of the type of contact made. The appropriate person must update the Homemaster arrears diary with a summary of the outcome of face-to-face or telephone discussions within one working day.</p> <p>When face-to-face contact (the first time or a change of circumstances) is made to discuss arrears with the tenant an Arrears Contact Form (Appendices) should be completed in full and signed by the tenant. The next section, 3.3, gives more detail regarding the process to be followed at an arrears home visit or office interview.</p> <p>Follow up All discussions with the tenant must be followed up with a letter/e-mail confirming such discussions, to be sent within 2 working days. A note of all standard letters and contact must be kept on SDM. The HO will regularly review each case, usually weekly, and consider the range of options available to recover the arrear.</p> <p>Consistency and support The HMM will review a random 10% sample of all cases on a regular basis. The HMM will add a note to the arrears diary to highlight the cases that have been reviewed.</p>	<p>HO</p> <p>HO</p> <p>HO/WR O/HMM</p> <p>HO</p> <p>HMM</p>
<p>Where the case notes or file suggests possible issues with application</p>	<p>HMM</p>

of the procedures, the HMM will receive an exception report from the HO outlining the reasons during the monthly meetings.	
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3.3 Personal Contact with the Tenant

Actions required	Staff lead
<p><i>Building on the tenancy profile, keeping it up to date and acting on information which could assist the tenant and the Association</i></p> <p>Throughout contact with the tenant, during initial action, the HO should build up a profile of the tenant's circumstances. The original information on the Tenancy Profile may be useful but might be out of date. The profile will be built up from direct contact with the tenant, and from liaison between CDHA Staff.</p> <p>All officers must ensure that relevant information is shared between members of the team, to enable the most effective arrears control. The HO will proactively seek information from the WRO or other agency, and vice versa, to fill any gaps in the information that can be gained directly from the tenant. The type of information required is:</p> <ul style="list-style-type: none"> • Are the tenant's personal and financial circumstances known? How many children are there? Who are the current qualifying occupiers living in the property? Who currently living in the property is likely to become a qualifying occupier in the foreseeable future? What is the main source of income? Are there any social/medical factors that may have a bearing on any future action? Multiple competing debt problems • Are the tenants receiving all benefits that they may be entitled to, in particular HB or UC? Have there been any changes in the tenant's financial circumstances? Ongoing benefit deductions, can we ask for this to be reduced? • If it appears that the tenant may qualify for Housing Benefit, has a Housing Benefit form been completed? If there is any chance that they may be entitled to some element of Housing Benefit, however small, a Housing Benefit Form must be completed. If in receipt of UC can we apply for an APA • Is the tenancy in joint names? Do both tenants know about the arrear? Where the tenancy is in joint names, the HO must ensure that all parties to the tenancy are aware of the arrear. Where it is suspected that one of the parties is not aware of the arrear, the HO must make contact with them to discuss the arrear. 	<p>HO</p> <p>All</p> <p>HO</p> <p>HO/WR O</p> <p>HO/WR O</p> <p>HO</p>

<p>If one of the joint tenants wishes to end their part of the tenancy and an arrear exists. The HO will confirm once the End of Tenancy (EoT) is signed and the remaining tenant confirms they will continue with the tenancy. Arrears accrued prior to the EoT will remain joint and several, and the tenancy agreement will not be amended until the arrear is clear, and Homemaster update. Arrears accrued after the EoT will only apply to the remaining tenant. The HO will write to both parties.</p>	<p>HO</p>
<p><i>Completion of an Arrears Contact Form</i> <i>The completion of an arrears contact record should be completed when there is concern about the management of the rent account by the tenant. The HO should assess when this is appropriate, but it should be completed (if possible) before a case is referred for court action. The Arrears Contact Form (Appendices) should be fully completed.</i></p>	
<p>The form is in 4 sections and the following points are particularly important:</p> <ul style="list-style-type: none"> • Section 1: Tenant’s personal circumstances. The interviewer must include any members of the household who may be classified as Qualifying Occupiers if a Notice of Possession needs to be served in the future. 	<p>HO</p>
<ul style="list-style-type: none"> • Section 2: Tenant’s income and expenditure. The interviewer must obtain sufficient details of the tenant's income and expenditure to assess a reasonable repayment arrangement. 	<p>HO</p>
<ul style="list-style-type: none"> • Section 3: Referred to WRO. The interviewer must record if this is done. 	
<ul style="list-style-type: none"> • Section 4: Repayment arrangement. The interviewer must record details of any arrangements reached. Any agreement must be recorded in the Homemaster summary field in the diary entry, stating agreement amount, frequency and start date. When making an arrangement, the interviewer must consider whether the arrangement is reasonable and whether the tenant is likely to maintain the arrangement. This should include all debts to the Association (rechargeable repairs, legal costs). 	<p>HO HO</p>
<p><i>Coming to a repayment agreement</i> Any arrangement made with the tenant must be realistic and take into account their financial and household circumstances. There is no point accepting a repayment proposal, which the tenant may not be able to maintain. A realistic amount for an agreement can be determined by taking into account all the circumstances relating to the tenants expenditure and disposable income. To decide a realistic amount, the HO must obtain information about the tenant’s employment circumstances, their net</p>	<p>HO</p>

<p>weekly or monthly income and the main outgoings of the household. A realistic repayment amount will be a proportion of the tenant’s surplus income—not all of it. Where the tenant’s outgoings appear to be greater than their income, or where the tenant receives basic IS or JSA, a minimum arrangement of DWP payments per week is acceptable. Can we apply for direct payments/APA? When a debt is static and owing more than 8 weeks full rent.</p>	
<p>Where a face-to face- interview is held, the tenant should be asked to sign the completed contact form, and the section confirming the arrangement for the repayment of the balance due. If the tenant refuses to sign the interview form this should be recorded on it, along with the reasons for this refusal. If the agreement is made by telephone this should be followed up by letter.</p>	HO
<p>The interviewer must also stress to the tenant the importance of any agreement being maintained and the serious implications of it being broken. Where the tenant is on IS, either voluntary or compulsory deductions from benefit at source should be considered. Similarly some employers may agree to mandated direct deductions from wages.</p>	HO
<p>All agreements must be followed up with an agreement letter, AR3 (Appendices). The agreement must be recorded in the Homemaster summary field in the diary entry, stating agreed amount, frequency and start date.</p>	
<p>Contact with other agencies In the course of contact with tenants about arrears, the HO will encounter situations where people have additional support needs, which the HO may not have the expertise to meet.</p>	HO
<p>a) The tenancy profile and personal contact may make it clear, that other agencies are involved. The HO may agree with the tenant to contact one or other of these agencies and seek their support in working with the tenant to address the arrears problem.</p>	HO
<p>b) The tenant’s situation or needs may present particular challenges to the arrears worker e.g. tenants with alcohol or drug addiction problems. The HO will be sensitive to these needs and seek guidance from the HMM on adapting or varying procedures if this will be more effective.</p>	HMM
<p>c) The arrears control procedures may highlight that the tenant or members of the household have support needs, beyond the remit of a landlord, which are not being met e.g. for home care. The HO may then make a referral to the duty Social Worker. The HO will keep notes of the outcome of the referral, and note this on SDM and the house file within 14 days of the matter being raised.</p>	HO

3.4 Broken repayment agreements

Actions required	Staff lead
<p>Where the tenant has failed to maintain an arrangement, the HO will take action within one week of the default by:</p> <ul style="list-style-type: none"> • investigating the reason for non-payment; • negotiating a new arrangement if the tenant's financial circumstances have changed such that the original agreement is no longer realistic. • negotiating measures to make up the missed payment and prevent the arrear from increasing further, which may include reconsidering benefit entitlements and referrals for further advice; • apply for rent direct • sending a broken agreement letter and refer to Welfare Benefits Officer AR4 (Appendices) <p>Where arrears continue to increase or there is a history of missed payments and defaults then the HO will consider legal or other action as detailed in section 4.</p>	HO

4.0 LEGAL ACTION

Despite all the efforts detailed in previous sections, there will be cases where this does not result in the tenant clearing the debt or making and keeping an arrangement to do so. At this point the Association must start to consider legal action. This section describes different stages to be carried out in this process and different types of legal action to consider.

4.1 Notice of proceedings

A Notice of Proceedings (NOP) is a legal document served on the tenant to inform them of the Association's intention to take them to court in order to recover possession of the house and the debt. It is the first stage in eviction proceedings. The Association has a duty to inform 'qualifying occupiers' of the intention to take proceedings. **Before an NOP is prepared, the staff member should complete the 'report prior to serve a Notice form' (NOPa) for approval from the HMM**

A qualifying occupier is someone who occupies the house as his or her only or principal home and is:

- A member of the tenant's family, aged 16 or over.
- A person to whom the tenant has assigned, sub let or otherwise given up possession of the house or any part of it following consent from the Association.

- A person, who with the Association's consent, has been taken in as a lodger.

When a qualifying occupier(s) applies to the court to be a party to the proceedings, the court must grant the application.

Actions required	Staff lead
<p>Notices should only be issued where there is a clear intention to proceed with legal action in the event of failure to respond.</p> <p><i>Before issuing a NOP</i> The tenant must be informed of the intention to do this, by sending an AR4 (Appendices) and given at least 7 days to respond to this. Wherever possible, the tenant should be contacted in person to discuss the intended action. This contact and the letter will also advise the tenant that the NOP process means that the Association is obliged to also notify any member of their household over the age of 16 that legal action may be taken. These are known as 'qualifying occupiers' (see above). The Association is legally required to make 'reasonable enquiries' to establish the identity of qualifying occupiers.</p> <p><i>The criteria for issuing a NOP</i> An NOP should be issued if the HO has carried out the necessary steps outlined in sections 3 and 4 to resolve the problem, complied with all the pre-action requirements and the tenant has:</p> <ul style="list-style-type: none"> • failed to respond to home visits, telephone calls and letters; • failed to make payments which have reduced the arrears; • made an arrangement but failed to keep it or failed to make up the underpayment • attempted/completed a budget plan <p>AND</p> <ul style="list-style-type: none"> • the HO has attempted to contact the tenant by telephone and at least two home visits <p>The Association may be satisfied that the rent arrears are in whole or part due to problems with processing of housing benefit, and the tenant, assisted by staff, is making every effort to address this. Where this is the case, then a Notice will only be issued where the conditions above are met.</p> <p><i>The content of the NOP</i></p> <ul style="list-style-type: none"> • The tenant (s) full name (s), Qualify Occupiers, and the address, including the postcode, must be accurate. • <i>Date the NOP becomes valid:</i> This must be the 'ish date' for the 	<p>HO/ HMM</p> <p>HO</p> <p>HO</p>

<p>tenancy and must be a date a full 28 days after the NOP issue date. This means that, for example, if an NOP is issued on the 6th of October, the 'date of validity' has to be the 28th November.</p> <p>This is the earliest date that you can commence proceedings. The NOP is then valid for 6 months.</p> <ul style="list-style-type: none"> • <i>Amount of arrears:</i> This should state the amount of the arrears on the date of issue. • <i>Debts owing to the Association:</i> Recharges or previous legal debts • <i>Grounds for serving the Notice:</i> This should state: "Ground 1: rent lawfully due from the tenant has not been paid". This is a discretionary ground i.e. the Sheriff has discretion to grant a decree for possession or not. • Completed the boxes to demonstrate that we have met the pre-action requirement 	
<p><i>Authorisation of a NOP</i> Because a time lag is built into the NOP stage to comply with the 'ish date', the HO should check for any NOPs which may need to be delivered, between the 20th – 25th of each month. If the 1st of the month is missed, then effectively the whole process is delayed by an extra month.</p>	HO
<p>Each NOP should be authorised and signed by the HMM or another Manager, who must be satisfied that this is the most appropriate next course of action.</p>	HMM
<p>The HO will prepare the NOP and print for signature. These should be passed to the HMM for signing and dating and then returned to the HO to arrange for delivery and photocopy. The HO should be able to demonstrate that the criteria for issuing an NOP have been met.</p>	HO/HMM
<p><i>Serving a Notice of Proceeding</i> A NOP may be hand delivered or served by recorded delivery. An original signed copy should be served.</p>	HO
<p><u><i>Hand delivery:</i></u> A witness form must be completed and signed by the staff members. This should be filed with the retained signed copy of the NOP. Hand delivery is the preferred option, with HO taking the opportunity to make personal contact with the tenant and come to a repayment agreement. <u>If the tenant is not in, it is acceptable to post the letter through the letterbox.</u></p>	HO
<p><u><i>Recorded delivery:</i></u> A NOP may be sent by recorded delivery e.g. where it is not practical or possible within the required timescale to follow either of the above methods. The mailing portion is attached to the letter and the remaining</p>	HO

<p>portion, once date stamped by the Post Office should be stapled to the NOP for proof of postage.</p> <p>All qualifying occupiers should <u>be sent an NOP 2 (not a copy)</u> by recorded delivery.</p> <p>Administration and recording The NOP is scanned on to Homemaster. The issue date for the NOP should be recorded on the case management (Homemaster).</p> <p>During a Notice period Sometimes receiving a Notice of Proceedings is a sufficient trigger to the tenant to encourage them to make contact and a repayment arrangement. If this happens, the HO should follow the procedures in section 3.3.</p> <p>If an arrangement is made and broken, further contact with the tenant should advise that the Association intends to instruct court action if the missed payment is not made up.</p> <p>Continued efforts should be made to make personal contact with the tenant, to obtain payment of rent and arrears and to advise on housing benefits and other sources of money or welfare advice and information.</p>	<p>HO</p> <p>HO</p> <p>HO</p>
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5.0 Last Chance Action

Where all the above procedures have been followed and after a NOP has been served, and still no payments have been made or the arrears continue to increase, the Association's policy is to provide one last chance to the tenant to remedy the situation before instructing court action.

Actions required	Staff lead
<p>Last chance letter The HO should prepare a Last Chance Letter, AR5 (Appendices). This will give a date for a 'last chance interview'.</p>	HO
<p>Last chance interview The HMM will attend the last chance interview (or appropriate alternative). This ensures that the Hearing is given the level of importance that potential eviction action requires.</p> <p>A Last Chance interview form (Appendices) must be completed during the interview and the tenant must be given every opportunity to explain why they have not paid the arrear. The purpose of this interview is to give the tenant one last chance to bring their rent account under control to a level acceptable</p>	HMM

<p>to the Association, by making an acceptable repayment arrangement. The tenant's income must also be reviewed in order to assess whether there are any opportunities for maximisation.</p> <p>At this interview the Manager must:</p> <ul style="list-style-type: none"> • establish the reason for the arrears accruing. • check the entitlement of the tenant for housing or any other welfare benefit/UC; • attempt to negotiate a reasonable and acceptable re-payment arrangement with the tenant; • obtain consent to refer to CDHA's WRO • advise that CDHA is obliged to notify the local authority when court action is raised; • inform the tenant of the consequences of court action if re-payment arrangements are not maintained. 	HMM
<p><i>Last chance interview recording and follow up</i> As detailed in sections 3.3 and 3.4, the HMM must ensure:</p> <ul style="list-style-type: none"> • The tenant signs the interview form as confirmation that they agree with the discussions at the interview and any agreement made. • The tenant is sent a standard letter confirming the outcome of the discussions, within two working days of the interview. • If an agreement is reached with the tenant to repay the debt by instalments at the interview, Homemaster and the relevant HO must be updated to reflect the expected payments and note the discussions. 	HMM
<p><i>Unable to interview or further broken arrangement</i> Where the tenant fails to attend to the Last Chance Interview, the HMM will be responsible for sending a Failure to Attend Letter, AR7 (Appendices) to the tenant on the day of the interview. This letter advises the tenant that court action will now be pursued within 7 days of the interview.</p>	HMM
<p>If the Last Chance Agreement is broken, the tenant will be visited if no response a letter (AR7) advising that court action will now be pursued. If the tenant responds and arrears agreement brought up to date, tenant advised but warned a further recurrence will result in court action. Qualifying occupiers in the household should also be advised.</p>	HMM/ HO

5.1 Court Action

Taking court action is a last resort in the arrear's recovery process. It may be taken where no payment has been made, or when an arrangement has been made and broken or when it has not been possible to come to a satisfactory arrangement and a Notice of Proceedings has been served. Court action is not appropriate where the arrears are due primarily to delayed payment of housing benefit or delayed settlement of a housing benefit claim.

The Association's rent policy permits two possible types of action:

Conjoined action

In the case of current tenant arrears, a conjoined action for recovery of the property and payment of the debt, and recovery of legal expenses. This means that once the tenancy is ended, the decree can still be used to recover debt from a former tenant.

Debt action

In some cases, the Association may want to take action to recover the debt only, where it does not think it necessary or appropriate to seek to recover the property. A successful debt action enables wages to be arrested, bank accounts frozen and luxury goods to be seized.

Small Claims, Summary Cause and Ordinary action may also be appropriate to pursue former tenant arrears (see section 6).

Actions required	Staff lead
<p>Decision and authorisation to instruct court action</p> <p>The HO should seek formal authorisation from the HMM to proceed with court action, by preparing the review, make a recommendation on the type of action and check that all the necessary information is in place to instruct a solicitor.</p> <p>This includes a detailed case history (Appendices) with dates of correspondence and visits, details of benefits advice and debt counselling offered, steps taken to identify if the tenant has support needs or circumstances which require the involvement of other agencies and steps taken to assist the tenant to access this support. (In some cases this may involve making a referral to social services e.g. if there are dependent children in the household)</p> <ul style="list-style-type: none"> • A copy of the appropriate pages from the tenancy agreement • The current Notice of Proceedings (tenant and QO) and proof of delivery • A print out of the tenant's rent account and payment record (rent statement) 	<p>HO/HMM</p> <p>HO</p>

<ul style="list-style-type: none"> • Copy of the arrears contact form • Details of the case from Homemaster diary report • Action requested • Copies of standard repayment agreements 	
<p>If debt action is recommended, the HO should present the information necessary to support this and seek authorisation from the HMM to proceed. A decision may be taken to instruct debt action alone where the debt is less than £750 and there is a reasonable prospect of recovering the debt. Factors which will support a decision to take this lesser action include:</p>	HO
<ul style="list-style-type: none"> • the debt is not increasing and the sum due is such that repossession action would not be reasonable • it would be cost effective to pursue the debt i.e. the amount recovered would exceed the legal costs of taking the action • the tenant is known to be in employment and the place of work is known • the tenant is known to have financial assets sufficient to cover the debt • as above, the intention to take this action and the implications of the action has been clearly explained to the tenant. 	HMM
<p>The HMM will consider key factors in deciding which, if any, action should proceed and cross reference against the Guidance on Pre-Action Requirements</p> <ul style="list-style-type: none"> • has the Association followed its procedures in trying to recover the arrears without recourse to court action? • is sufficient information known about the tenant and their household circumstances (payment plan) to demonstrate that this is a reasonable course of action? • has entitlement to housing benefit being checked and if not, why not? • has the Association linked the tenant to other sources of advice, support or assistance according to their needs? • is all the documentation up to date, accurate and legally acceptable? • have the implications of this action been clearly explained to the tenant and have they been told their rights? 	HMM
<p>Instructing the solicitor If court action is authorised, a letter/email AR9 should be sent to the solicitor instructing him/her to take action and providing relevant information. The HO should confirm receipt of the instruction within 24 hours and note on Homemaster.</p>	HO
<p>At the same time, the tenant and qualifying occupiers should be sent a standard letter AR8 advising that court action has been instructed and the action they can take to come to an arrangement, their rights and where they</p>	HMM

<p>can obtain advice and information. The HMM should sign these letters.</p> <p>The solicitor will arrange for a court date to be fixed and the summons to be served and should inform the HO when this has happened. The HO should seek confirmation of a court date within 7 days of instruction. The HO will be their main contact person once a case reaches court action stage. The HO is responsible for liaising with the solicitor on progress and if no date is received within 14 days of instructing will chase up again, with assistance and back up from the HMM as required. The tenant should be <u>contacted</u> by letter AR10 when a court date is set <u>and again encouraged to come to an arrangement for repayment.</u></p>	HO
<p>Notifying Glasgow City Council Homeless Service of Court Action Section 11 of the Homelessness etc (Scotland) Act 2003, places a duty on the Association to notify GCC regarding applying for a court date. This is to give the Council early notice of households who may be at risk of homelessness due to eviction. CDHA's solicitor will advise GCC when this is to happen.</p> <p>Monitoring and recording</p> <p><i>Homemaster arrears notes and the house file should be kept up to date with dates court action is instructed; dates summons issued and court date.</i></p>	
<p>Internal Communication and Support</p> <p>NB. At this point the HMM and the HO should work closely to ensure each is fully informed about progress on the case. The HO should enquire if rechargeable debts or any other costs owing to the Association are to be included in the action.</p>	HMM/HO
<p>Contact with the tenant's solicitor and other agencies Once court action is instructed and until the court date arrives, the HO will continue to try to contact the tenant and to encourage payment.</p> <p>While continuing to try to work with the tenant to repay the arrears, staff have to take care that their actions and statements cannot be misconstrued. Once court action is instructed the tenant may appoint his or her own solicitor or may seek advice and support from other agencies. These people may then contact the Association seeking information about the case and their client.</p> <p><u>Contact with tenant's solicitors:</u> All requests will go through CDHA's solicitors.</p> <p>If a staff member is in doubt about the nature of the enquiry or has concerns about the information requested, they should seek advice from the HMM.</p>	HO

<p><u>Contact with other agencies:</u> Other agencies should provide signed authority from the tenant to divulge information pertinent to the arrears case; if they do not, they should be advised that this is required; in the meantime, the HO will also directly seek the tenant's signed permission to release relevant information so that appropriate help is obtained as quickly as possible.</p> <p><u>Contact with Social Services:</u> If there are dependent children in the household or where the tenant is known to be vulnerable, the social work department should also be contacted by the Housing Officer by telephone.</p>	
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5.2 The Court hearing

Actions required	Staff lead
<p>Further home visit before the hearing</p> <p>The HO should arrange a home visit before the court date wherever possible so that an arrears repayment arrangement can be made, and the consequences of the court action explained to the tenant.</p>	HO
<p>Update instructions to the solicitor</p> <p>The HO should expect a telephone call or e-mail from the solicitor two or three working days before the court date, requesting up to date information on the arrears due and further instructions. All instructions should be typed and saved in the appropriate tenant file. The instructions will depend on payments received or arrangements made in the period before the court date as follows:</p> <ul style="list-style-type: none"> • Arrears paid before court date: Decree for expenses • Arrangement made and payments have been received: Case continued to monitor payments or sisted (put aside to give the tenant the opportunity to repay the arrears at an agreed rate) and when the debt is cleared the case can be brought back to court and dismissed with expenses. • The tenant has made a promise to clear the debt by a set date (after the court date) or further investigation is needed: ask for the case to be continued to a future court date (usually 2– 4 weeks). • There has been an offer to pay the arrears by instalments but previous history means there is reasonable doubt that this will happen – Request decree for payment, possession and expenses as cannot sist for a second time. • Tenant has done nothing: Decree for possession, payment of the debt and expenses. 	HO

<p>Attending the hearing CDHA will be represented by its Solicitor at the court hearing. However, the HO should attend if required or if 3 or more cases are calling that day or be available ‘on call’ in the Office that day in case further information is required. If the case is dismissed, the solicitor should receive and pass on a decree of dismissal. The HO should update Homemaster to record this and place the decree in the central folder and a copy of the extract in the property folder.</p>	HO
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5.3 Court decision, monitoring and calling back in Court

Actions required	Staff lead
<p>Written confirmation to tenant of court outcome All arrangements made with the tenant should be confirmed in writing and the decision on the court action should be also be confirmed in writing with clear advice on the consequences of failure to maintain any arrangement made at this point. All cases should be monitored and reviewed monthly, no case should be sisted for longer than 12 months</p>	HO
<p>Case sisted or continued</p> <ul style="list-style-type: none"> • If the case has been sisted or continued, then the arrangement must be closely monitored and action taken immediately if payments are not received as agreed. • <u>Payment missed:</u> HO, after discussion with HMM, will write to the tenant and make personal contact by home visit if possible, otherwise by telephone, to advise the case will be recalled. If the payment is not made up, HO will write to the solicitor to have the case brought back to court, with details of current arrears, up to date file information including the reason the case needs to be recalled. • [NB. It is not good practice to keep recalling and then sisting a case. A case should not be sisted on a second occasion – if you do not want to go for a decree, then do not ask for the case to be recalled. • <u>Case continued:</u> HO to note the new court date and proceed as outlined in section 4.4. The HO will advise solicitor of up to date position and provide further instructions. • <u>Debt cleared:</u> Where the case is sisted and the debt is cleared, the HO will contact the solicitor to bring the case back to court for dismissal and expenses. 	HO HO HO

<p><i>Treatment of rent payments made after a decree is granted</i> Payments can be credited to the account until the eviction has been carried out.</p>	
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5.4 Enforcement of repossession decree and eviction

If a decree is granted, the solicitor should notify the HO within a few days of the court calling date. However the Decree cannot be enforced until the Extract Decree is received from the court, which usually takes 2 – 3 weeks. This states the date the tenancy will terminate (this is the earliest date on which eviction can take place), the amount of debt covered by the decree and the amount of expenses, which may be charged to the tenant.

5.5 Enforcement of debt recovery

In some cases the cost of enforcing a debt recovery decree e.g. to arrest wages are greater than the wages which can be arrested and care needs to be taken to serve the arrestment on the correct day e.g. before wages or salaries are paid.

Actions required	Staff lead
<p>Where a debt recovery or conjoined decree has been granted, the HMM will decide whether it is cost effective and reasonable to implement this.</p>	HMM
<p>The HMM will only approve wage arrestment or freezing of a bank account where:</p> <ul style="list-style-type: none"> • the Association is aware of the tenant’s household and financial circumstances, including weekly or monthly income from wages or salary from a single employer; • knows the name and address of the employer 	HO/HMM
<p>A debt action approval form and checklist should be prepared by the HO for authorisation by the HMM. If approved, the HO should discuss the date for the arrestment with the Sheriff Officers and send the Decree recorded delivery with a covering letter.</p>	HO
<p>Where any other debt recovery remedy is proposed, the HO will discuss the conditions with the solicitor prior to proceeding.</p>	

5.6 Legal expenses

Recoverable legal expenses become a debt owed by the tenant to the Association. However they are not a rent debt.

Actions required	Staff lead
The HO should note any recoverable legal expenses detailed in the Decree in order that they can send an invoice to the tenant for the legal expenses.	HO
Thereafter the HO should use the procedures in section 3.2 and 3.3 to come to an arrangement with the tenant for repayment of this debt along with rent arrears. Where legal expenses are included in former tenants' debts, these should be pursued in line with the procedures detailed in section 6.	HO

6.0 FORMER TENANT'S ARREARS

The Association's policy is to pursue all former tenant arrears.

6.1 Prevention and management

Actions required	Staff lead
<p><i>Before the tenancy ends</i> When a tenant gives notice to terminate their tenancy, the HO will calculate the rent due to the end of the tenancy.</p>	HO
The HO must write to the tenant to give them the balance due on the rent account at the tenancy termination date and to seek a forwarding address.	HO
The HO will send a letter to advise a date for a joint termination of tenancy visit. If there are arrears, this should be discussed at the visit and the HO should try to make an arrears repayment agreement before the tenancy is ended, using the procedures detailed at section 3.3. If necessary, the HO should advise the tenant that because of the level of arrears the sanctions available to the Association if they do not make arrangements to clear the debt, including debt action, and the implications of this action for future credit checks. HO to consider immediate referral for court action to obtain a decree for payment only.	HO

<p>After the tenancy ends – identification and monitoring of arrears</p> <p>All former tenant accounts should be checked by the HO, 5 working days after the termination date, to monitor for housing benefit adjustments or agreed payments towards arrears and enable a quick follow up if necessary. Thereafter the HO will obtain a monthly former tenant arrears report from SDM at the end of the rent period and will use this for monitoring and action, applying similar processes to those for current tenant arrears.</p>	HO
<p>The HO will also notify the local housing benefit section of the end of tenancy date.</p> <p>If arrears exist and (legal expenses) and it has not been possible to make a previous agreement, the HO should immediately refer for debt collection. HO will ascertain if there are any other monies owing to the Association.</p> <p>Where a new address is known or the tenant can otherwise easily be contacted, the HO should pursue all arrears (standard letter in Appendices).</p>	HO
<p>Where the tenant has not provided a forwarding address and cannot easily be contacted, the HO should refer the case to the debt collectors immediately along with any known debts to the Association. HO will refer the case even if invoices have not been received as they can be added later.</p>	HO
<p>Arrears recovery procedures</p> <ul style="list-style-type: none"> • If the former tenant's new address is known and they previously agreed to a repayment schedule and they fail to respond to the first letter, a second standard letter should be sent after 10 working days • If the address is known attempt should be made to make personal contact with the former tenant by telephone or visit, if practical. • If these procedures have been followed without positive outcome, the HO should seek approval from the HMM for the debt to be passed to a debt collection agency. In making the decision the HMM will consider the likelihood of debt recovery, the amount owed and practical issues for the Association in pursuing the debt such as travel distances. • If a forwarding address is not known or no contact or agreement was made and the arrears exceed £100. The case should be passed/uploaded within 10 working days for debt collection. 	HO HMM

6.2 Legal action

Actions required	Staff lead
<p>In some cases, the Association will hold a Decree for payment, following a repossession action. In this case, the procedures detailed at section 5.5 should be followed.</p> <p>Where a forwarding address is known, small debt action should be considered following the procedures detailed at with enforcement as detailed in section 5.6.</p>	HO

6.3 Write offs of former tenant debt

In some cases efforts to pursue former tenant's arrears will not be successful and a decision should be taken to write off where there is no forwarding address or little or no prospect of recovery.

Writing off a balance is an accounting exercise. It does not mean the debt is cancelled or forgotten.

Actions required	Staff lead
<p>Every six months, at the end of June and the end of December, the HO should consider which of the former tenant rent arrears are irrecoverable and present a report of these to the HMM including the reasons for this and making a recommendation for write off. The following criteria should be applied after the arrears recovery procedures in section 6.1 have been exhausted:</p> <ul style="list-style-type: none"> • the arrears are less than £50, have endured for more than a year and there is no repayment arrangement • the former tenant died and has left no estate • the former tenant is unlikely to have the funds to repay the debt in a reasonable time scale e.g. if the tenant is on Income Support. However the debt may nevertheless be passed to a debt collector. • there is no readily available forwarding address to pursue debts • where a housing benefit underpayment has not been addressed by the local authority in over a year • the debt was passed to a tracing agent or debt collector but no monies have been recovered in the last six months. 	HO HMM

<p>Where the write off is approved by the HMM, the report should be passed to the Management Committee approval for write off sought at the February Committee meeting.</p> <p>Once approved, the Finance section is responsible for making the relevant financial adjustments to the rent accounts.</p> <p>If a payment is received after the debt is written off (e.g. via a debt collection agent), then the Finance department will set up a sundry debtor account to receive the payment.</p> <p>If a former tenant makes an application for housing, the HO should check their rent history (including arrears written off) and use the new contact details to make a further attempt to recover the debt.</p>	<p>HMM /MC</p> <p>FIN</p> <p>FIN</p> <p>HO</p>
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7.0 PERFORMANCE MONITORING AND REPORTING

The HMM has overall responsibility for arrears performance and for supporting the Housing Officer in managing rent arrears. The HMM is also responsible for strategic overview and reporting to the Management Committee. The HO will support this with information on arrears statistics and trends.

The HMM acts as a control and internal audit on procedures when authorising NOPs or court actions or discussing the HO's serious arrears report [e.g. report of arrears in excess of £500]. The HMM supports the HO to ensure consistency and quality of approach.

Actions required	Staff lead
<p><i>Monthly arrears analysis – departmental monitoring</i></p> <p>The HMM will produce monthly and quarterly reports from Homemaster and save on the One drive. This will include information on:</p> <ul style="list-style-type: none"> • current tenant rent arrears; • as above, net of housing benefit due (known as 'non-technical' arrears, as a percentage of annual rent receivable); • numbers of current and former tenants in arrears, broken down by banded amount owing • average arrears by current tenants in arrears. 	<p>HMM</p>

<ul style="list-style-type: none"> • numbers of Notice of Proceedings issued; • numbers of court actions instructed and summary of outcomes e.g. decree enforced/eviction; sisted, time to pay order; 	
<p>Support and decision making in relation to serious arrears</p> <p>The HO will review monthly reports on serious arrears cases and will have the opportunity to discuss progress and actions with the HMM. These reports will enable a less detailed, quarterly, report to be prepared and presented to the Management Committee.</p>	HO
<p>Committee monitoring and control</p> <p>The HMM will produce a quarterly report, which analyses trends over the quarter(s) and reports on performance against set targets. This report will be presented to the Committee and include information on:</p> <ul style="list-style-type: none"> • current rent arrears as a percentage of total annual rent receivable; • current rent arrears, net of housing benefit due (known as 'non-technical' arrears, as a percentage of annual rent receivable; • arrears written off in the year as a percentage of annual rent receivable; • former tenant arrears as a percentage of annual rent receivable; • numbers of current and former tenants in arrears, detailing numbers owing more than £750 • average arrears by current tenants in arrears. • numbers of Notice of Proceedings issued; • numbers of court actions instructed and summary of outcomes e.g. decree enforced/eviction; sisted, time to pay order 	HMM

Appendix

ARREARS CONTROL TIMELINE

Week	New arrears identified at the end of the rent debit	Diary time to follow up action
1	Investigate cause Send small balance letter SB1 (under £25) or AR1 or applicable HB letter (where HB is involved)	1 week
2	Check for response to letters No response home visit, check qualifying occupiers Response: set up repayment agreement AR3	1 week
2 – 3	Still no response, send AR2 letter, warning of potential legal action Response: set up repayment agreement AR3 Try personal contact by telephone or visit	1 week
2 and ongoing	Monitor repayment agreement Broken arrangement - send AR4 Try personal contact by telephone or home visit; refer to Tracy	Weekly
4 – 5	Still no response - issue NOP 1 and or NOP 2 Try personal contact by telephone or home visit	1 week
4 -6	If response: Repayment agreement set up AR3	weekly
6	Set up last chance interview with HM AR5, If response Last Chance Agreement letter AR6 Fail to attend letter sent AR7	1 week/ 1 week
7	Breach Agreement and no response, ask WRO to contact before prepare for court action and advise HO of outcome, prepare court action report and discuss with HM Send AR8 to solicitor and AR9 to tenant, copied to qualifying occupiers Try telephone calls and arrange home visit If response: Repayment agreement set up	2 weeks 1 week
8-9	Court date obtained, send letter AR10 to tenant Try telephone calls and arrange home visit If response: Repayment agreement set up	Weekly contact

From the above timeline, you can see the importance of tight diary monitoring and follow up action - following all of these still means that the tenant could be 3 months in arrears by the time you get to court if it has not been possible to come to an arrangement.

At any point, where arrears are due to HB overpayment or where there appear to be **complex** housing benefit issues requiring a challenge to the local authority or welfare benefit issues, the HO should discuss the case with the WRO. **NB** if you do this, you are referring the benefit issues NOT the arrears management - it is still your case.

Similarly at any point, you may find it helpful to refer them to an outside agency e.g. money advice or cab

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