

Former Tenant Arrears Policy

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CORPORATE FIT	
Internal Management Plan	✓
Risk Register	✓
Business Plan	✓
Regulatory Standards	✓
Equalities Strategy	✓
Legislation	✓

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1. INTRODUCTION

Tollcross Housing Association recognises that maximisation of rental income is fundamental to its success and ability to deliver an effective and efficient housing service to customers. Rental Income should be collected from tenants during the life of the tenancy. When this does not happen, THA will attempt to recover outstanding balances of rent and/or sundry debts.

THA also recognises that collection of rental income and recovery of rent arrears can prove challenging, particularly where the arrear is a Former Tenant Arrear. THA has put in place robust procedures to identify and collect debt as well as having mechanisms to identify the cause and resolution prior to termination.

These procedures, if followed, will minimise Former Tenant Debt but will not remove them entirely. Therefore clear guidance and procedures for the recovery and management of Former Tenant Debt has been produced to ensure that all staff understands the objectives of debt recovery and their role in helping THA achieve these objectives.

This policy sets out the purpose, scope, procedure, responsibilities and write-off criteria in relation to Former Tenant Debt. It also includes information on how the performance of Former Tenant Arrears will be measured and evaluated.

The purpose of this document is to provide clear guidance on the procedure for managing Former Tenant Debt to ensure this is applied consistently across staff in the Association.

This guidance applies to **all** former tenants who owe monies to THA in respect of rent arrears and/or sundry debts.

2. LEGISLATION AND REGULATORY FRAMEWORK

2.1 Legislation

The current legal context for dealing with Former Tenant arrears is contained within the Housing (Scotland) Act 2001. However, in implementing our approach the Association is aware of our rights and responsibilities contained in other legislation:

- **Data Protection Act 2018**

This Act controls how your personal information is used by organisations, businesses or the Government. It outlines the Associations responsibilities for gathering and sharing information.

- **Equality Act 2010**

The Policy shall comply with the above Act to ensure individuals are protected from discrimination.

- **Debtors Scotland Act 1987**

Enable the Association to seek a wage arrestment from a debtor

- **Bankruptcy and Diligence etc (Scotland) Act 2007**

Outlines the legislation in terms of tenants who declare themselves bankrupt.

2.2 Regulatory Framework

The Scottish Social Housing Charter was introduced by the Scottish Housing Regulator in 2012. The charter sets the standards and outcomes for all social landlords when performing their housing activities. The outcomes which are relevant to this policy are:

- Equalities
- Communication
- Tenancy sustainment
- Value for money

3. OBJECTIVES

The main objectives of this policy are to outline clearly the framework for recovery and writing off former tenant arrears.

As Former tenants are historically difficult to recover it is important to initiate preventative action before the tenancy has terminated, or commence contact and recovery promptly after the termination date, therefore the following steps shall be taken by staff to ensure these key aims are achieved:

- Ensure that former tenants are provided with support and advice about methods of payment and their requirement to pay Former rent arrears and other debt.
- Endeavour to recover the arrear and other debt, with the co-operation of the former tenant without having to resort to legal action.
- To make use of the tracing systems, legal processes and external agents where the Association attempts have failed, but only when appropriate to do so.
- Establish clear procedures to ensure staff have a consistent approach to pursuing former tenant rent arrear and other debt.
- Pursue the collection of former tenant arrears and other debt where feasible and financially viable to do so.

- Set performance targets for former tenant arrears and provide quarterly reports on performance to the Management Committee and Operations Sub Committee
- Provide effective performance management and monitoring information to staff to evaluate performance.
- Ensure that the Association acts within relevant legislation, regulatory framework and good practice in relation to the prevention, management and recovery of former tenant rent arrears and other debt.
- To minimise write-offs (value and volume)
- To minimise former tenant arrears by following robust end of tenancy procedures
- To maximise use of computer systems to monitor, record, pursue, analyse and report on Former tenant debt.
- Analyse findings from internal and external audits to ensure staff are compliant with procedures and identify any training issues.

4. PREVENTION

Upon receipt of a tenant's termination notice, the Association will make personal contact with the tenant and:

- Ensure pre-end tenancy procedures are carried out e.g. Obtain their forwarding address, contact details, national insurance number, and where possible and/or applicable, their employer and bank account details. In addition, ensure all these details are inputted quickly and accurately onto the housing software system
- Advise the tenant of the amount of rent to be paid up to the termination date of their tenancy and the amount of any other debt owed to the Association for example, rechargeable repairs or court expenses. This can be checked on the Association's housing software system or other relevant computer software.
- Explain fully the future implications of leaving a former tenant arrears – e.g. future tenancy references; rehousing implications; debt recovery procedures; future credit difficulties.
- Agree a repayment plan and method of payment especially, if the tenant is currently in arrears.
- Ensure tenants are aware of Housing Benefit, Universal Credit and other Welfare Benefits which they may be entitled to, for a period up to terminating their tenancy and if required provide assistance to them in applying for benefits.

- Confirm in writing the rent due up to the termination of tenancy date, and if applicable, the amount of rent arrears; any other debt; and the agreed repayment plan.

When dealing with current tenants in arrears, and especially when pursuing legal action for recovery, Housing Officers and Housing Assistants will ensure that records and information regarding the tenant are kept up to date to assist in taking action should the tenant becomes a former tenant. (e.g. any employer details, mobile telephone number, family contacts/addresses etc).

5. MANAGEMENT AND CONTROL

Where the Association has a forwarding address for, or can contact, the former tenant, the Association will:

- Endeavour to reach a realistic payment arrangement with the former tenant to clear their rent arrears and other monies owed to the Association.
- Monitor former tenant arrangements on a monthly cycle and take prompt action if the arrangement is not being adhered to.
- Ensure that all correspondence is clear and concise and that it provides the name and telephone number of the member of staff to contact.
- Ensure that all correspondence clearly sets out the next stage in the escalation process and the deadline for avoiding further action.
- Record all interviews and telephone discussions with the former tenant.
- Maintain a clear audit of actions taken on the computerised rent accounting system.
- Provide support and assistance in relation to reducing the debt, for example – appointments with Welfare Benefit Officer, link in with support network that the former tenant may have.
- Pursue all avenues in order to recover the debt owed to the Association – repayment arrangements, wage arrestments, utilise local knowledge.

6. LONG TERM RESIDENTIAL CARE AND DECEASED CASES

The Association recognises that in some instances some level of discretion should be used when dealing with cases of a sensitive nature. Therefore, this policy outlines the Associations approach to long term residential care and deceased cases.

6.1 Long Term Residential Care

When a tenant terminates their tenancy in order to reside in long term residential care the Association will:

- Analyse the situation with the view to determining whether or not it is financially viable to pursue the debt if the Former tenant has no source of support or capacity to understand requests made by the Association regarding monies owed. Housing Management staff can discuss such cases with the Housing Manager who will decide if the case should no longer be pursued and be written off.
- If Former tenants have family members/support workers who could assist the Association with pursuing the debt steps should be taken by staff as outlined in the procedure to recover monies owed.
- In all other cases, the Housing Manager, should weigh up the cost of monies owed against the cost of recovering the debt and determine perusal or write off

6.2 Deceased Cases

Unfortunately, in the event of the death of a tenant the Association will:

- Liaise with family members/next of kin as to when keys to the property should be returned and terminate the tenancy on the date of death. The Association recognises that there will be lost rent accrued due to tenant sadly passing away. The Association will not make any charges to the tenancy if the keys are handed back within 2 weeks of the tenant passing away. If this cannot be achieved the following steps should be taken.
- Apply discretion and discuss any outstanding debt owed to the Association at the notice of termination interview and discuss repayment of any outstanding debt. Staff should also check Tenant To Be Billed(TTBB).
- Apply discretion and take steps to determine if the deceased tenant has any estate. This will usually be applied if the family members or next of kin advise they are not in a position to pay.
- After exploring all the above points decide if the case should be written off. This should be discussed and authorised by the Housing Manager.

7. LEGAL ACTION

The Association will instruct its solicitor to raise legal action to recover former tenant arrears and other debt only if it is feasible and financially viable to do so, and if there are realistic options for the Association to enforce any decree for recovery of the debt.

Legal action will be raised in accordance with debt recovery summary cause action and small claims procedure. The Association will pursue an open decree for repayment or an instalment decree for repayment both of which would be enforced by the arrestment of wages.

Circumstances that must therefore be considered are:

- The amount of the arrear and outstanding debt.

- The financial cost of raising legal action.
- Up to date details regarding the former tenant's address; his/her employer; bank details.
- Likelihood of the Association being awarded a decree and the ability to enforce it.
- The former tenants current circumstances, for example, if tenant is in prison

8. DEBT COLLECTION – SOLICITORS

The Association will engage the services of its Solicitors to assist in recovering former tenant arrears and other debts.

Referrals made to the Solicitors will require to be cost beneficial to the Association. This is likely to be based on a reasonable charge for a successful tracing of the former tenant against the amount of debt owed to the Association.

Former tenant arrears cases will be forwarded to the Solicitors if:

- The Association does not have the current address of the former tenant.
- The Association is aware of the former tenant's address, or where he/she can be contacted – and the former tenant has failed to respond to the Association's letters and/or has failed to adhere to the repayment plan and arrangement.
- The Association has secured a decree for the outstanding arrears/debt and is having difficulty in enforcing the decree.

The Solicitor must:

- Advise the Association staff of outcomes of activity
- Liaise with Association staff to return cases where the recovery has failed within 6 months of the case being referred to them
- Provide performance information as required
- To action cases referred by the Association staff
- Continuously improve efficiency of debt recovery

In each instance the outstanding debt on cases referred to the debt collection agency should be **greater than £200**.

9. WRITE OFF AND BAD DEBTS

The considerable practical problems associated with pursuing former tenant arrears and other debt, unfortunately tends to result in a low collection rate therefore the resource and financial costs of tracing and pursuing individual former tenant debt also requires to be measured against the amount outstanding and the likelihood of its recovery.

The Association will unfortunately have former tenant debts which will not be pursued or recovered and will be recommended for write-off, prior to the end of each financial year. This will only be considered when every route in relation to recovering the debt has been exhausted.

Write off will generally apply where:

- The former tenant is deceased and has no estate.
- The debt is less than £200.
- Internal procedures to recover the debt has failed and the debt is less than £200.
- No forwarding address can be obtained and the debt is less than £200.
- The Solicitor recommends there is no prospect of recovery.
- The former tenant has a long-term prison sentence. A long-term prison sentence is deemed as 1 year or greater.
- The former tenant is in long term residential or hospital care with no means of paying the debt.
- There is a risk to the reputation of the Association.

10. PROCEDURES, STAFF TRAINING AND RESPONSIBILITIES

The Association will develop and maintain comprehensive former tenant arrears procedures which reflect the commitments of this policy. These will guide and direct the actions of staff who will have identified responsibilities in this area of work.

Former tenant arrears actions and payments will be recorded in the computerised rent accounting and arrears monitoring system on the housing software.

A suite of standard letters will be established to assist consistency in processing former tenant arrears. Letters will be personalised and offer contact details of staff.

Staff will be provided with in-house and external training on debt recovery. Training will cover the requirements of this policy; the procedures; the IT system, regulatory

framework; and legislation.

The Housing Manager has delegated authority to interpret and implement the Former Tenant Arrears Policy following its approval by the Management Committee and/or Operations Sub-Committee.

Key areas of responsibilities for staff will be detailed in the former tenant arrears procedure. A summary of which is outlined in the below table:

Action	Delegated Authority
Pre-termination of tenancy actions in accordance with 4.1 & 4.2 above	Housing Officer and Housing Assistants but mainly Housing Assistants
Immediate post termination actions where no notice of termination provided.	Housing Officer and Housing Assistants but mainly Housing Assistants
Monitoring payments, & processing cases to next stage in procedure	Housing Officer and Housing Assistants but mainly Housing Assistants
Instructing Debt Collection Agency to trace and/ or pursue former tenant debt	Housing Officer and Housing Assistants but mainly Housing Assistants
Instructing Solicitor to raise Legal Action	Housing Officer and Housing Assistants but mainly Housing Assistants
Instructing Solicitor to enforce Decree for payment of arrears (e.g. wage arrestment)	Housing Officer/Housing Assistant with authority of the Housing Manager
Allocating and loading the appropriate write off code onto the housing software system in preparation for the year end write off report	Housing Officer/Housing Assistant with verification by Housing Manager
Former Tenant Debt write off	Housing Director and/or Housing Manager with approval /authorisation of Management Committee and/or the Operations Sub-Committee

11. PERFORMANCE MONITORING AND TARGETS

Monitoring performance in the management and recovery of former tenant arrears and other debt will involve Housing Management Staff at all levels, and will be overseen by the Housing Director and Committee Members at meetings of the Management Committee and/or the Operations Sub Committee.

Performance targets will be set for the organisation and will be subject to review each year. Targets will include:

- Former tenant arrears to within a % of the gross annual debit.

12. ROLE OF COMMITTEES

Committee Members will be concerned with the overall strategy and policy to be adopted in relation for former tenant arrears. They will monitor the level of former tenant arrears and the Association's performance in recovery of the outstanding debt against key performance indicators.

Quarterly and Annual statistical reports on former tenant arrears will be presented to the Management Committee and/or the Operations Sub- Committee. The content of these reports and the amount of detailed information provided will reflect the Association's standing orders and scheme of delegated authority between the Committees.

The Management Committee and/or the Operations sub Committee will be responsible for:

- Considering and approving the write-off of irrecoverable former tenant arrears.
- Reviewing and approving the Former Tenant Arrears Policy.
- Monitoring the level of former tenant arrears and performance in recovery of the outstanding debt.
- Benchmarking the Association's performance against targets and the performance of peers.
- Considering and implementing as appropriate recommendations made by the Performance Monitoring groups
- Considering and implementing as appropriate recommendations made by the Director of Housing Services based on any findings in the internal and external audits.

13. EQUAL OPPORTUNITIES

The Association will seek to ensure that in implementing this policy and its associated procedures, no group, organisation or individual will receive less favourable treatment or be discriminated against regardless of their race, colour, ethnic or national origin, sex, marital status, disability, sexual orientation, religion, age or other grounds. This is in accordance with the Equalities Act 2010 mentioned in 2.1 of this policy.

14. REVIEW

The Association will formally review this policy at least every three years. A review within this period may however be carried out as required to make amendments due to legislative changes, performance requirements or changes to the Association's standing

orders and delegated authority to Committees/Operation Sub Committee and to the Senior Management Team.

Procedures will be amended as and when appropriate to accommodate changes in legislation, IT system upgrades, good practice guidance, or if monitoring performance indicates objectives and targets are not being achieved.