



Former Tenant Arrears Policy

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1.0 Introduction

Rent arrears represent a significant problem for Social Landlords.

An arrear is delayed income. Money – due from a tenant current or former – which has not been paid.

As rent is the Association's main source of income and this impacts directly on its financial viability, it is in the interests of **both** tenant and landlord to keep arrears to a minimum. Therefore directing resources to deal with rent arrears can have a positive effect on the level of service to tenants.

Coping with debts can be a stressful experience for a tenant in arrears. Arrears can be a symptom of deeper financial problems. Trying to clear the outstanding debts can often lead to financial hardship and ultimately, if unsuccessful, to possible eviction and homelessness.

It is critical, therefore, that in its actions Linstone is sensitive to tenants' problems whilst taking positive and effective steps to minimise the level of both CURRENT AND FORMER tenant arrears.

The purpose of this policy is to provide a good practice guide in relation to arrears control for former tenants.

2.0 Objectives

Our policy aims to meet the following criteria:

- to ensure continued communications for former tenants by offering the support of a named member of staff
- to ensure that former tenants have access to clear information and advice about methods of payment and our process of arrears control

- to recover arrears, as far as possible, with the voluntary co-operation of the former tenant
- to institute legal proceedings only when voluntary arrangements are not satisfactorily maintained or have failed
- to establish clear procedures for both staff and committee members to ensure an equitable and consistent approach to former tenant debts whilst ensuring confidentiality is maintained
- to pursue collection of former tenant arrears where feasible by all means available
- to ensure that Linstone complies with all relevant legislation and good practice in relation to the prevention and minimisation of rent arrears. At the time of writing the main pieces of legislation include:
 - ❖ Housing (Scotland) Act 2001
 - ❖ Introduces the Scottish Secure Tenancy which includes rent arrears recovery grounds for social landlords
 - ❖ Disability Discrimination Act 1999
 - ❖ Ensuring that our services are accessible to all. E.g. Payment methods, ramped access to office etc
 - ❖ Data Protection Act 1998
 - ❖ Implications for the gathering and sharing of information. E.g., Rent Allowance, Social Work Department, Homeless Persons Unit etc.
 - ❖ Human Rights Act 1998
 - ❖ Impacts on the way social landlord seeks recovery of possession.
 - ❖ Children (Scotland) Act 1995
 - ❖ Impacts on the way social landlord seeks recovery of possession.
 - ❖ Debtor (Scotland) Act 1987
 - ❖ Gives the social landlord power to seek wage arrestments from debtor.
 - ❖ Debt Arrangement and Attachment (Scotland) Act 2002
 - ❖ Allows anyone with a multiple debt problem to apply for a debt payment plan
 - ❖ Good Practice Briefing (Issue 21) Managing Rent Arrears
 - ❖ Raising Standards: Rent Arrears Prevention, Management and Recovery

❖ Housing Management Standards Manual

- to act in accordance with Scottish Homes Performance Standards for Housing Associations

3.0 Policy Methods – Prevention and Management

As with current tenant arrears **PREVENTION** is the key to this policy.

- We will use the following methods to prevent and/or manage any former tenant arrears:-
 - maximising our performance on current arrears recovery in line with Policy HM11.
 - carrying out a rent check and then having personal contact to make a repayment arrangement with any tenant advising that they wish to end their tenancy
 - explaining fully the implications of leaving a former tenant debt i.e. rent references, rehousing, recovery procedures etc, and the process which will be followed
 - highlighting the various methods of payment
 - providing accurate rent references to any prospective Landlord
 - contacting any tenant who is in arrears when a request for a rent reference is received and agree a repayment plan
 - obtaining as much information from an outgoing tenant as possible e.g. forwarding address, employer details, National Insurance number, bank account details, contact details, etc.
 - ensuring tenants are aware of the various welfare benefit and entitlement, particularly Housing Benefit. In every case where it is appropriate staff will ensure that assistance is given in the completion of a Housing Benefit form including the provision of relevant evidence.

Linstone Housing Association has been approved by Renfrewshire Council to verify all supporting documentation in connection with an application for benefit. Claims submitted via Linstone will be monitored to ensure timeous processing and payment.

- providing details of who to contact if the tenant is experiencing financial difficulties with particular reference to rental payments. This should include their Housing Officer, National Debt Line, Advice Works, "Dealing with Debt" publication and any other relevant support networks.
 - providing information and advice about local agencies who may be a source of assistance e.g. local charities, Advice Works, community groups, Paisley Law Centre.
- We will reach a realistic and affordable arrangement with the former tenant to clear their account on an agreed frequency.
 - We will monitor former rent accounts on a fortnightly basis and take prompt action if payments are missed
 - We will conduct interviews in private – whether at tenants home or in the office.
 - We will ensure all letters have a named officer together with relevant contact details such as our telephone number, the officer's availability, offering home visits, etc. Letters will be clear, concise and jargon free.
 - We will ensure letters clearly set out the next stage in the process and the acceptability of reducing the outstanding arrears by instalments. These letters will always give a deadline for the tenant to make contact or payment.
 - If the tenant is vulnerable we will arrange for their advocate to be present and we will also arrange for an interpreter or signer if necessary.

- We will use standard proformas to record all interviews and visits.
- We will ensure staff are knowledgeable on the range of welfare benefits available and the eligibility criteria for these.
- To support our policy we will ensure that we have a set of procedures which will detail for staff and committee members the action to be taken at each stage of the process.
- Ongoing training will be provided on these procedures and other aspects of arrears control and debt counselling as appropriate.
- We will have in place and maintain an effective computerised rent accounting system. This will ensure that both staff and tenants will have clear, accurate and up to date information and that the most appropriate and effective action is taken.
- Performance Targets for former arrears will be set and will be reported to the Management Committee.

4.0 Wider Framework

There are significant links between this policy and a variety of other documents, both internal and external. These are listed below:

4.1 Internal Management Plan

Our Internal Management Plan details the association's future direction and is used as a mechanism for measuring success. It details our vision, our mission, our strategy and sets out our business objectives and strategic direction.

Within this document the effective recovery of current rent arrears is integral to the achievement of Strategic Direction 5.4 "maintain financial viability." and business objective 7.6 "increase efficiency in management"

4.2 Homelessness Strategy

Renfrewshire Council published their Homelessness Strategy in 2003 in line with the requirements of the Housing (Scotland) Act 2001. It details how the council together with its partners will ensure that homelessness services develop in line with the needs and aspirations of local people.

There are two major areas of relevance to homelessness within rent arrears.

Firstly, that effective arrears control will potentially reduce the risk of homelessness on an individual basis and secondly, by providing good quality information and assistance in relation to welfare benefits it should enable the tenants to maximise their income.

4.3 Verification Framework

Under legislation, the Local Authority is responsible for the processing and award of housing benefit on behalf of the Department of Works and Pensions.

The verification framework was introduced in order to identify and reduce fraudulent claims and requires the claimant to provide extensive information in support of their claim. For example, they must provide original documentation relating to their identity, National Insurance number, residency and income. This process increases the time it takes to administer claims and in an effort to ensure that this did not have a detrimental effect on our tenants, Linstone became involved in providing a verification service.

We can therefore assist the tenant in completing housing benefit forms and are able to ensure that they are submitted timeously to Renfrewshire Council. There is a commitment from Renfrewshire Council that claims submitted in this way will be processed within the 14-day timescale.

4.4 Publicity / Communication Strategy

We produce various publications that highlight the importance of tenants maintaining rental payments or ensuring that if difficulties arise they should make contact with their Housing Officer. We regularly supply information in relation to payment methods, office opening hours etc.

4.5 Rent Setting Policy

Under the Housing (Scotland) Act 2001 landlords must, before giving notice of any rent increase, consult with tenants and have regard to the views expressed. Our policy in relation to Rent Setting has five key objectives.

- 1) To ensure that the rents set meet the Association's costs and provide sufficient funds to undertake the planned refurbishment and replacement programme.
The aim is to provide high quality homes for rent and to ensure the long term financial viability of the Association.
- 2) To ensure, whenever possible, that rents are affordable for those in low paid employment.
- 3) To ensure, wherever possible, that rents are comparable with the rents of other social landlords providing similar accommodation.
- 4) To consult fully with tenants who would be affected by any rent increase proposal and to have regard to these views.
- 5) To ensure compliance with those clauses relating to rent in the 1998 Sale/Purchase agreement with Scottish Homes,

It is contained in this policy that rent notifications, informing tenants of any increase in their rent, will be sent out as soon as possible but with at least a minimum of one month's notice.

4.6 Performance Standards

As a social landlord we are regulated by Communities Scotland and their expectation for our performance is clearly defined within the Performance Standards documentation.

These performance standards are divided into two areas, Activity Standards and Guiding Standards. Within the guiding standards there are a number of areas relevant to this policy such as the requirement to have high quality written policies and procedures, good quality information and advice, our responsiveness to service users and financial viability. The activity standard (AS 1.8) which governs the management of rent arrears states “We act to prevent arrears of rent and service charges building up. We recover any arrears fairly and effectively.” Our policy is designed specifically to meet these standards.

4.7 Tenant Participation

In line with the requirements of the Housing (Scotland) Act 2001 we will consult with tenants in developing and amending any of our policies including the Rent Arrears Policy.

We will seek input from residents, Tenants and Residents groups and any other ad-hoc groups of residents to achieve as representative consultation as is possible. We will have due regard to such representations before agreeing any change.

4.8 Allocations

The Housing (Scotland) Act 2001 places new rules on the allocation of houses. A prospective landlord cannot take into account various factors, which include:

- any rent arrears or other tenancy debt no longer outstanding
- any rent arrear less than 1/12th of the current amount.
- where a tenant with rent arrears has maintained a suitable arrangement for at least three months.
- any outstanding debts, such as council tax arrears, which are not directly attributable to the tenancy of the house.

The above guidelines will be applied to any Linstone tenant seeking rehousing with another landlord or to any non-Linstone tenant applying to us. If however a current tenant is applying for a transfer within Linstone then they will require to meet the following criteria before any offer will be made: -

- a clear rent account if there is no level of housing need within any of the categories of Overcrowding, Underoccupation, Medical / Community Care, Urgent Social Need and / or Family Support.
- For employed applicants, a reduction of 50% in the total arrear within 7 days of selection or an acceptable repayment arrangement maintained for a period of 6 months.
- For unemployed applicants, a reduction of 25% in the total arrear within 7 days of selection or an acceptable repayment arrangement maintained for a period of 6 months.

When arrears are accruing it is necessary that the current tenant is fully aware of the implications of non-payment of rent with regards to rehousing by Linstone or another landlord.

4.9 Right To Buy

The Housing (Scotland) Act places restrictions on tenants wishing to purchase their property under Right to Buy. Section 46 allows landlords to refuse an application from a tenant wishing to exercise their Right to Buy if they have accrued rent or council tax arrears.

If a tenant has received a Notice of Proceeding for rent arrears they will automatically be suspended from exercising their Right to Buy.

4.10 Health and Safety Manual

This document highlights the risks associated with dealing with members of the public, either in the office or on site. It also gives the staff guidance on what procedures they should follow to minimise or eliminate these risks.

4.11 Supporting People Strategic Plan

This document sets out the aims and objectives for housing support services and summarises current provision, needs and gaps. It has a role when considering the Association's arrears policy because it comments on various vulnerable groups many of whom may also be affected by financial difficulties and therefore be subject to this policy.

5.0 External Agencies

In an effort to provide a network of support for those tenants with multiple debts we will work closely with our colleagues in other agencies, including: the Benefits Agency; Advice Works, local charities, community groups, Renfrewshire Council – Social Work and Housing; Citizens Advice Bureaux.

Any information shared will require to be compliant with the Data Protection Act 1998 and we will endeavour to obtain the tenants written consent before entering into dialogue with any other agency.

It is essential that effective and close working relationships be fostered between ourselves and Renfrewshire Council's Rent Allowance Section.

A proportion of rent arrears cases may be avoided if efficient systems are in place between both organisations.

6.0 Former Tenant Process

6.1 First Contact

This should happen when a tenant first advises they wish to end their tenancy.

The staff member dealing with such a request, whether it is in writing, on the phone, or in person at the office must: -

- (i) Carry out a rent check to find out whether there is any outstanding rent debt.
- (ii) Assess the rent charge due up to the end of tenancy date.
- (iii) Obtain full repayment of this amount where possible or, as a minimum, reach an acceptable instalment arrangement

NB: Where the tenant is moving to another rented property or indeed a purchased home we should already have been asked for a rent reference. If outstanding rent is an issue at the point when the reference is requested contact should be made with the tenant in an attempt to resolve. However if there has been no contact from the prospective Landlord or Mortgage Lender the Housing Officer should now advise them of the rent situation

- (iv) Obtain from the tenant a full forwarding address including details of Landlord or Mortgage Lender.

- (v) Obtain future telephone number (if available).
- (vi) Obtain employer details (if applicable) or assessment of current financial circumstances.
- (vii) Obtain bank account details.
- (viii) Explain the former tenant arrears recovery process including the involvement of a Debt Collection Agency.
- (ix) Explain the possible future implications of non-payment of any outstanding rent e.g. possible refusal for a future tenancy.

All of these details should be noted on the Former Tenant Information proforma (Appendix 1) which will also look at income/expenditure details together with the proposal to repay.

6.2 Post End of Tenancy

If at the end of the tenancy, the arrear is still outstanding and no arrangement has been made with the former tenant to clear the arrear, the following steps must be followed: -

- (i) A letter sent as soon as the tenancy has ended, advising the tenant that the outstanding balance, and asking that the arrear be cleared as soon as possible, or to contact a Housing Officer to make an acceptable instalment arrangement to repay the arrear (Appendix 1).

If a former tenant is in long-term hospital care or deceased, a letter is sent to next of kin asking for details of Solicitor or person dealing with the estate (Appendix 3A & 3B).

- (ii) Former Tenant Information Proforma (Appendix 2) is used to make an arrangement.
- (iii) Two weeks after the end of tenancy, assuming no contact or payment a second stronger letter is sent, again detailing the outstanding arrear and advising the former tenant that the debt may be passed to a Debt Collection Agency if the arrear not cleared (Appendix 4).
- (iv) After a further two weeks, if no payment received or no arrangement made, a home visit will be carried out if the new address is local.
If the forwarding address is not within a reasonable distance (approx 10 miles) a final warning letter is sent by Linstone's solicitor.

If a visit is carried out and access obtained the Former Tenant Information Proforma (Appendix 1) should be completed. Should there be no access at the forwarding property, a card must be left advising that failure to contact within 7 days will mean that their case may be passed to the Debt Collection Agency.
- (v) Two weeks later, if no payment received or no arrangement made, a solicitor final warning letter is sent (assuming this has not already happened at (iv) above. If this has already been sent move immediately to stage (vi).
- (vi) After a further two weeks assuming no contact a final letter is sent advising former tenant that debt has been passed to a Debt Collection Agency for action Appendix 5/Proforma Appendix 6.

It should be noted that only arrears of £50.00 or more will be sent to the Debt Collection Agency and therefore it is only these cases which should receive the letter at Appendix 5.

Cases up to £50.00 which have gone through the above process must be re-coded on IBS to W/OFF. They will then be written off at the end of the financial year.

NB: If no forwarding address is given, then debt is passed to Debt Collection Agency as soon as tenancy ends for them to trace debtor if possible and pursue arrear. Given the cost of successful tracing this should not be requested for cases where the debt is less than £100.00.

Cases below £100 where we have no forwarding address should automatically be coded for write off.

7.0 Debt Arrangement Scheme

The Debt Arrangement and Attachment (Scotland) Act 2002 is the product of a Working Group on tackling debt and makes provision for the setting up of debt arrangement schemes whereby “individuals may arrange for their debts to be paid under debt payment programmes”.

This involves the debtor contacting an approved money advisor who will discuss with the client whether a debt arrangement application is the best way to deal with their debt problems. A successful debt payment programme prevents the creditor (in this case Linstone Housing Association) from using any legal remedy to recover the monies owed.

A debt payment programme allows someone with multiple debts problems to make one single payment to a “payment distributor” who will then forward money to creditors on an agreed basis – normally pro-rata based on the amount outstanding. This is a formal legal agreement which will avoid any further court action providing it is maintained.

In Renfrewshire, both Citizen's Advice Bureau and Advice Works are in the process of appointing / registering DAS approved Money Advisors.

In terms of this policy, where it is clear that a former tenant has a multiple debt problem, staff will automatically make a referral to one of the above agencies to see whether invoking the Debt Arrangement Scheme would be appropriate.

Whilst the assessment process is ongoing the Housing Officer will continue to progress the arrears through the stages described in this policy but will keep in contact with the referral agency to seek an outcome on any DAS application.

Any request for consent to a Debt Payment Programme must be passed to the Housing Services Manager for decision.

8.0 Write-Off of Bad Debts

Some former tenancy debts will not be recovered for various reasons.

- a) Former tenant in long-term hospital care with no means of paying.
- b) Former tenant deceased with no estate.
- c) On advice from Debt Collection Agency, no prospect of recovery.
- d) Cases up to £50.00 with a forwarding address which have been through the full internal recovery process.
- e) Cases between £2.00 and £10.00 with a forwarding address which have been actioned up to 6.2 (iii)

- f) All cases with a forwarding address below £2.00
- g) All cases up to £100.00 where there is no forwarding address

These debts will be recommended for write off by Housing Services Manager/Operations Director to the Chief Executive at the end of the financial year. Write Off will only be considered for debts which have gone through the process outlined above.

Appendix 1

Contact:

Our Ref: FT1

Your Ref:

Dear Sir/Madam

Former Tenancy:
Account Number:
Outstanding Amount:

I note that you have recently terminated your tenancy of the above Linstone property.

Our records indicate that there is an amount of £ still
outstanding in your account.

I would be grateful if you would clear this amount within the next seven days.

If you require any clarification or are unable to pay, in full please contact on 01505-382383 who will be happy to discuss the situation and/or make an arrangement to clear by regular instalments.

Yours faithfully

Catherine Wilkie
Housing Services Manager

Appendix 2 - Linstone Housing Association
Former Tenant Information Pro-Forma / Arrears Repayment
Arrangement (FT-LRA11)

Tenants Name _____

Forwarding Address _____

Former Tenancy Address _____

End Of Tenancy Date _____

Reference No. _____ Telephone No. _____

Time & Date Of Interview _____

Location Of Interview _____

Person(S) Interviewed _____

Family Details _____

Arrears £ _____

HB Overpayment £ _____

Rechargeable Repairs £ _____

Court costs £ _____

Rent to EOT £ _____

Total Balance £ _____

Employment Details

Appendix 2 (cont'd)

Income Details

	Tenant	Spouse/Partner	Others
Earned Income	£_____pw	£_____pw	£_____pw
DSS Benefits	£_____pw	£_____pw	£_____pw
Other	£_____pw	£_____pw	£_____pw
Total	£_____pw	£_____pw	£_____pw
Total Household Income		£_____pw	

Expenditure Details

Council Tax	£_____pw	Food	£_____pw
Electricity	£_____pw	Work	£_____pw
		(Travel & Meals)	
Gas	£_____pw	Others (detailed below)	
	£_____pw		
Total	£_____pw		

Others (details)

Arrangement Made To Clear Arrears

Date of first repayment _____

Amount of first payment £ _____

Frequency of further repayments _____

Date of second payment _____

Amount of further payment £ _____

Method of payments _____

Weekly payments will be made on a _____

Appendix 2 (cont'd)

Declaration

I hereby confirm that the details listed above are an accurate record of this interview. If I am unable to keep to this arrangement I must notify Linstone Housing Association prior to defaulting on the agreement. Failure to do so will result in Linstone Housing Association passing this arrear to a Debt Collection Agency. **I understand that this arrangement will be reviewed after 3 months and adjusted if necessary.**

Tenant
Signed _____
Name _____

Tenant
Signed _____
Name _____

Staff Member

Signed _____
Name _____

Office Use Only

Amount to Former Tenant Arrear	£
" " Housing Benefit Overpayment Account	£
" " Recoverable Repair Account	£

Appendix 3A

Contact: _____

Our Ref: FT/SOL1

Your Ref: _____

Dear Sir/Madam

Please accept our condolences on the death of your _____.

An amount of £_____ remains outstanding in his/her former tenancy at _____.

In order to clear the arrear please forward details of the Solicitor or other person dealing with the estate. If there is not a Solicitor involved, please contact _____ on 01505-382383 to discuss.

Yours faithfully

Catherine Wilkie
Housing Services Manager

Appendix 3B

Contact: _____

Our Ref: FT/SOL2

Your Ref: _____

Dear Sir/Madam

An amount of £_____ remains outstanding in _____
_____ former tenancy at _____.

In order to clear the arrear, I would be obliged if you could forward details of the Solicitor or other person dealing with his/her affairs. If there is not a Solicitor involved, please contact _____ on 01505-382383 to discuss.

Yours faithfully

Catherine Wilkie
Housing Services Manager

Appendix 4

Contact:

Our Ref:

Your Ref:

Dear Sir/Madam

Former Tenancy:
Account Number:
Outstanding Amount:

Despite my previous correspondence I note that you have not yet cleared the above account, nor contacted Linstone Housing Association to make an acceptable arrangement to repay the debt.

Please arrange to pay the outstanding amount within the next seven days.

If you are experiencing difficulty, and are unable to clear in full, please contact _____ on 01505 382383 to discuss repayment by regular agreed instalments.

If you fail to make contact by _____ I may require to pass your case to a Debt Collection Agency. You will not receive any further warning.

I cannot stress how important it is that you make contact, as requested, if you wish to avoid further action.

Yours faithfully

Catherine Wilkie

Housing Services Manager

Appendix 5

Contact:

Our Ref:

Your Ref:

Dear Sir/Madam

Former Tenancy:
Account Number:
Outstanding Amount:

Despite previous letters and a visit to your home you have failed to clear the above account or contact Linstone to make an arrangement to repay the debt.

Linstone Housing Association has now passed the arrear to a Debt Collection Agency for them to recover the debt. They will be in touch with you directly in the very near future. Please note that this action may affect your credit rating and any future application for housing you make.

Please contact _____ on 01505 382383 if you wish to discuss this matter further.

Yours sincerely

Catherine Wilkie
Housing Services Manager

Appendix 6

Name			
Former Tenancy Address			
Account Number		Amount Outstanding	£
Start of Tenancy			
End of Tenancy			
Forwarding Address			
Telephone Number			
Employer			
Telephone Number			
National Insurance Number			
Action Taken	FT1		
	FT2		
	Visits		
	Telephone Calls		

Comments	