

**Policy on:**

**Arrears Management Policy**

**Compliant with Charter  
Outcomes and Standards:**

11 Tenancy Sustainment, tenants at risk of falling into arrears; and  
13 Value for Money, effective debt management

**Compliant with Equal  
Opportunities:**

Yes – We consulted with our customers and provide opportunities to influence how we deliver services.

**Compliant with Business Plan:**

YES - Great Homes; providing arrears management services that support low arrears levels, tenancy sustainment and business viability

**Compliant with Risk**

Yes - Risk 6 – Rent Affordability; Mitigates the risk of increasing rent arrears through effective arrears management practices.  
Risk 16 – Welfare Reform; Financial Inclusion services and liaison with partners to mitigate the risk of increasing arrears.

**Date for Approval:**

**September 2021**

**Date for Review:**

**September 2026**

**Responsible Officers:**

**Ann Black – Customer Service Manager**



## Contents

<b>1. Introduction .....</b>	<b>.....</b>
<b>2. Legal Framework.....</b>	<b>3</b>
<b>3. Policy Objectives.....</b>	<b>3</b>
<b>4. Equality .....</b>	<b>4</b>
<b>5. Responsibilities.....</b>	<b>4</b>
<b>6. Prevention of Rent Arrears.....</b>	<b>5</b>
<b>7. Early Action .....</b>	<b>6</b>
<b>8. Rent Arrears Recovery .....</b>	<b>6</b>
<b>9. Legal Action.....</b>	<b>6</b>
<b>10. Monitoring and Reporting .....</b>	<b>7</b>
<b>11. Staff Training .....</b>	<b>7</b>
<b>12. Re-housing when in Arrears.....</b>	<b>7</b>
<b>13. Board Members in Arrears .....</b>	<b>8</b>
<b>14. Complaints Policy .....</b>	<b>8</b>
<b>15. Policy Availability.....</b>	<b>8</b>
<b>16. Policy Review .....</b>	<b>8</b>
<b>17. Coronavirus Pandemic</b>	
<b>18. Regulatory Standards of Governance and Financial Management .....</b>	<b>9</b>



## 1. Introduction

The purpose of the Arrears Management Policy is to maximise income through the prevention and recovery of current and former tenant rent arrears.

Rental income is our primary source of income. Prevention and recovery of rent arrears is a key performance area of our business to ensure we have the income required to continue to deliver services to our tenants and remain financially viable into the future.

## 2. Legal Framework

The policy operates in accordance with the statutory and regulatory framework for Registered Social Landlords.

- The Housing (Scotland) Act 2014
- The Homelessness etc (Scotland) Act 2003
- The Equality Act 2010
- Bankruptcy and Diligence etc (Scotland) Act 2016
- Data Protection Act 2018
- Regulatory Standards of Governance and Financial Management
- The Scottish Social Housing Charter
- Shire Housing Association's Scottish Secure Tenancy Agreement

## 3. Policy Objectives

The objective of this Policy outlines the way the Association will prevent, manage, and recover arrears of current and former tenants. The Arrears Management Policy will help minimise rent arrears and take early action to prevent tenants at risk of falling into arrears.

They include:

- To offer tenants every support at the pre-tenancy stage to meet their responsibility for paying rent in advance and assess their capacity to pay.
- To have effective systems in place to monitor arrears and take early action to help tenants sustain tenancies and prevent homelessness.
- To take effective and appropriate action to recover rent lawfully due from both current and former tenants
- Offering tenants choice on the most convenient method of payment.
- Developing and sustaining partnerships with Housing Benefit and the Department of Work and Pensions to help tenants maximise their entitlement with help to pay rent.

- Ensure that we have effective Financial Inclusion systems in place to help tenants mitigate the risks of welfare reform, under-occupation charges and Universal Credit.
- To regularly review policies, procedures, and performance to ensure our approach remains fit for purpose.

## **4. Equality**

Shire Housing Association is committed to providing fair and equal treatment to all our customers. We will ensure this policy delivers fair outcomes for different groups of customers to help tenants meet their rental obligations.

We will not discriminate against anyone on the grounds of civil partnerships, race, colour, ethnic or national origin, disability, religion, age, sexual orientation, marital status, civil partnerships, family circumstances, employment status or physical ability.

## **5. Responsibilities**

### **5.1 The Board**

The Standing Orders sets out the responsibility of the Board. In respect of arrears management, Board responsibilities are:

- To approve strategy or policy for arrears prevention, control, and recovery.
- Set the framework for consideration and management of risk.
- To monitor arrears performance against targets or performance expectations and monitor the welfare reform impact on arrears; and
- To consider eviction appeals

The Director has delegated authority to ensure that the legal and statutory obligations in relation to arrears management are met.

The Board will approve appropriate targets for arrears performance and monitor statistical information in line with the reporting cycle. The Audit Committee is responsible for regular review of the Risk Management Plan.

### **5.2 Senior Management**

The Director, Head of Housing and Customer Service Manager are responsible for:

- Ensuring adequate resources are available to manage arrears effectively; and
- Developing and reviewing the association's strategic and operational management plans that meet the outcomes of the Business Plan.

The Customer Service Manager will authorise the instigation of court proceedings



which will comply with the requirements of the Housing (Scotland) Act 2010. The Head of Housing will approve Solicitor instructions to seek Repossession before a case calls in court.

The Customer Service Manager responsibilities include:

- To ensure arrears management procedures are implemented effectively.
- To monitor Customer Service Officer performance against arrears targets.
- Conduct compliance audits with Customer Service Officers on a one-to-one basis where arrears performance exceeds target.
- Provide performance management and legal action reports to the Head of Housing and
- Provide progress reports in line with the Board reporting cycle

### **5.3 Tenant or Joint Tenants**

Tenants have an obligation under the Terms and Conditions of their Tenancy Agreement to pay rent due in advance on or before the first day of each month.

Joint tenants are jointly and severally liable for paying rent.

Tenants have a responsibility to notify the Housing Benefit section at East Ayrshire Council, or DWP (Department of Work and Pensions) Departments of any change that may affect their ability to pay rent from housing benefit or universal credit.

We offer a wide variety of payment methods to tenants and encourage payment by direct debit where possible. They include:

- Direct Debit
- Allpay card facility
- Allpay App
- Credit or Debit Card
- Standing Order
- Cheque

## **6. Prevention of Rent Arrears**

We will adopt a supportive approach with customers with the emphasis on prevention, advice, and income maximisation for both the customer and the Association. We will ensure new tenants can meet their rental obligations at the pre-tenancy stage to pay rent in advance or make a suitable arrangement and assess their capacity to pay.

In-house Financial Inclusion services focus on working in partnership with East Ayrshire Council's Housing Benefit Service, Citizen's Advice and DWP departments to assist tenants to manage their rent effectively and maximize income. All tenants in arrears will receive information about the help available to ensure compliance with the pre-court requirements of the Housing (Scotland) Act 2010.



We consult with tenants each year regarding any change to the rent payable and give tenants 28 days written notice of any increase in rent, or service charges.

## **7. Early Action**

We will instigate arrears management procedures by week two of the monthly debit cycle if rent is not paid. This will minimize the risk of rising rent arrears and help tenants to meet their rental obligations.

In cases where the tenant cannot clear the arrears in a single payment, we will undertake a detailed financial assessment and agree an affordable payment plan to clear arrears over a reasonable period.

## **8. Rent Arrears Recovery**

Rent arrears recovery is based on a staged escalation process, giving tenants reasonable time to respond, up to and including repossession action for non-payment of rent.

The process is based on a preventative approach that seeks to maximise entitlement to benefits and secure regular payments. Customer Service Officers are responsible for intensive weekly monitoring of arrears to initiate early action and prevent the escalation of arrears.

We will not normally pay any allowances direct to tenants in arrears. Instead, any allowances due will be used to off-set outstanding arrears balances.

We will provide clear information in relation to arrears recovery in line with the obligations set out in the Tenancy Agreement. We will provide a breakdown of total arrears, including service charges and court expenses, and give tenants a written copy of any agreed repayment plan.

## **9. Legal Action**

We will instigate legal action as a last resort to recover rent arrears in serious or persistent arrears cases where recovery action has been exhausted and arrears continue to rise.

The Head of Housing will approve all evictions following a detailed case report. Following the Court decision, a report will be presented at the next Board meeting. The tenant's identity will not be disclosed to the Board.

Where arrears are cleared in full before a case calls at court, we will dismiss the case without seeking costs.

### **9.1 Insolvency, Trust Deeds and Sequestration**



In these cases, a Trustee is appointed to act in the interests of creditors where a debtor cannot re-pay debts. Should the Association be one of the creditors and decide to object to the granting of a Trust Deed, we will continue to pursue the debt and continue with legal action for repossession. However, once the Trust Deed is protected, we cannot pursue the Arrears Debt but can still pursue legal action for repossession.

In these cases, where arrears debt is outstanding, we will lodge a creditor claim with the Trustee for re-payment of the debt. This will be considered along with all other creditors. It is worth noting that even with the contribution-based agreement in place, it is usually the case we would not receive a pay-out at the end of the period once the Trustee has deducted expenses.

Arrears which arise following a protected Trust Deed or sequestration will be pursued and recovered in line with this policy.

## **10. Monitoring and Reporting**

Performance on rent arrears is monitored through the internal audit process, our benchmarking groups, and the Management Board. The Head of Housing will report the following information to the Board as per the reporting cycle.

- Gross Rent Arrears (all tenants) as a percentage of rent due for the reporting year.
- Current tenant arrears as a percentage of rent due for the reporting year.
- Former tenant arrears as a percentage of rent due for the reporting year.
- Number of Notice of Proceedings issued.
- Number of court actions initiated.
- Number of Decrees granted.
- Number of evictions.

## **11. Staff Training**

Staff will have access to ongoing arrears management training together with other appropriate training on matters such as Housing Benefit and Universal Credit as may be appropriate to their role within the organisation.

## **12. Re-housing when in Arrears**

When considering applicants for re-housing, we will disregard arrears of less than one month's where regular rental payment is being made and in arrears cases where an acceptable re-payment arrangement has been in place for three months or more.

In cases of domestic abuse, current or former arrears will not be used as grounds for suspending a re-housing application or withdrawing an offer of alternative housing.



### **13. Board Members in Arrears**

Board Members may also be tenants of the Association and should not accrue arrears. The Customer Service Manager will monitor Board Members (tenants) rent accounts quarterly and advise the Head of Housing and Director of such instances. Any Board Member continuing in arrears for three months or more may require having their membership considered by Board. If a member is issued with a Notice of Proceedings, their resignation will be invited, or membership terminated.

### **14. Complaints Policy**

Complaints relating to arrears management will be dealt with in accordance with our Complaint Handling Procedure. A customer guide to complaints is widely promoted and accessible.

In keeping records about complaints and in allowing access to our files we will comply with the legislative requirements and will be handled in accordance with the requirements of data protection and freedom of information legislation and will only be used for the reasons specified and will not be shared with any third party (unless required by law). Individuals have the right to see and receive a copy of any personal information that is held by the Association and to have any inaccuracies corrected.

### **15. Policy Availability**

This document will be made available on request in full or in part on tape, in large print, in Braille, or translated into another language free of charge.

### **16. Policy Review**

This Policy will be reviewed at least every five years. Earlier review may be necessary where legislative or organisational change occurs, following internal audit recommendation or customer consultation.

### **17. Coronavirus Pandemic**

The coronavirus pandemic has the potential to negatively impact on a tenant's ability to maintain rent payments and the Scottish Government have introduced additional guidance for landlords during the period of the pandemic. Shire Housing aims to sustain tenancies and will continue in its approach of early intervention and prevention of arrears of rent with intensive levels of support offered to tenants who are facing financial hardship due to the impacts of the virus. This includes a continuing information campaign being distributed via regular social media routes

If tenants are unable to pay off any arrears in full, Shire Housing shall agree to offering tenants time to repay any arrears. A repayment plan shall be assessed with the Customer



Service Officers on individual circumstances and agreement reached that suits the following circumstances:

- Tenants awaiting the outcome of benefits claims.
- Tenants furloughed on a lower % of typical salary.
- Tenants in financial hardship due to pandemic related additional costs.
- Tenant with housing costs on 2 homes where local restrictions prevent occupation of a new tenancy.

Officers shall maintain regular contact with tenants on covid repayment plans to ensure the agreement is maintained. Tenants failing to engage for failing to comply with the agreed repayment agreement shall be escalated through the recovery procedure as appropriate.

### **Eviction**

Shire Housing shall comply with the emergency legislation passed by the Scottish Government to protect renters in Scotland during the Covid-19 outbreak. The Coronavirus (Scotland) Act 2020 protects tenants in Scotland from any eviction action for a time defined period. These new rules extend the notice period needed before a landlord can apply for an eviction order. This is not a ban on evictions, but it increases the length of time between a landlord's formal notification via the NOP process, that action is being taken and the case being heard at the court from 3 to 6 months.

Should a decree for eviction be awarded during a period when local pandemic control measures are at increased government levels, Shire Housing shall continue to instruct Sheriff Officers to serve the charge for removal in these circumstances and monitor engagement with the tenant during the 6-month period allowed for enforcement.

These new rules apply to cases where the notice was served on or after 7 April 2020 and will be in place until emergency legislation is reviewed. Any cases that had already been raised before 7 April 2020 are assessed by the original rules

## **18. Regulatory Standards of Governance and Financial Management**

In carrying out this policy the Association aims to demonstrate compliance with the following standards:

1. The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.
  - 1.1 The governing body sets the RSL's strategic direction. It agrees and oversees the organisation's strategic and financial plans to achieve its purpose and intended outcomes for its tenants and other service users.



- 2 The RSL is open and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.
- 2.4 The RSL is open, co-operative and engages effectively with all its regulators and funders, notifying them of anything that may affect its ability to fulfil its obligations. It informs the Scottish Housing Regulator about any significant events such as a major issue, event or change as set out and required in our notifiable events guidance.
4. The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.
  - 4.1 The governing body ensures it receives good quality information and advice from staff and, where necessary, expert independent advisers, that is timely appropriate to its strategic role and decisions. The governing body can evidence any of its decisions.
5. The RSL conducts its affairs with honesty and integrity.
  - 5.1 The RSL conducts its affairs with honesty and integrity and, through the actions of the governing body and staff, upholds the good reputation of the RSL and the sector.

