



# RCH Policy:

## Rent Arrears Recovery

### 2021 - 2024

Policy Owner	Head of Customer Service
Policy Manager	Service Improvement Manager
Approval Body	Social Landlord Operations Committee
Approval Date	26 <sup>th</sup> January 2020

## Contents

1. Scope .....	3
2. Introduction.....	3
3. Definitions .....	5
4. Policy Outline .....	5
5. Equality Impact Assessment .....	10
6. Review.....	10

This policy is available, on request, in different languages and in other formats such as large print, audio format and braille as required.

## 1. Scope

This policy describes the activities and responsibilities involved where current tenant rent accounts are in arrears. The term "rent arrears" applies to both rent and service charges.

The Rent Arrears Policy applies to all rented property owned or managed by River Clyde Homes (RCH).

RCH will ensure the promotion of equal opportunities by publishing information and documentation in different languages and other formats such as large print, tape and braille, as required.

RCH will ensure that no individual is discriminated against on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or other personal attributes, including beliefs, or opinions, such as religious beliefs or political opinions.

## 2. Introduction

This policy outlines the way RCH will prevent, manage and recover arrears of current and former tenants.

At RCH we can only provide services and improve and maintain our housing stock if we have a steady rental income and minimal rent arrears. The prevention, management and recovery of rent arrears is a crucial element in the financial management of our organisation.

As a provider of social housing we understand that rent arrears are a major issue for our tenants and have a responsibility to provide advice and assistance to those experiencing financial difficulty.

To help our tenants avoid arrears and other tenancy related debts, RCH have a team of Housing Officers (HO) who provide a generic tenancy and rent management service and a Financial Wellbeing Team (FWT) who can help maximise incomes and improve the financial, social and economic inclusion of our tenants. This can reduce the impact of arrears on RCH.

As well as meeting our legal requirements, RCH will do everything it can to be as supportive and helpful as possible in preventing and managing arrears

### **Legislation and Policies:**

The following is a brief summary of the legislation that affects the recovery of rent arrears;

The Data Protection Act 1998

Imposes obligations on the Association not to disclose personal information held on computer or certain types of non-computerised data.

The Equality Act 2010

Social landlords perform all aspects of their housing services so that every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

Housing (Scotland) Act 2001

The Act requires the Association to provide tenants with a written document stating the terms of the tenancy, including the obligation to pay rent lawfully due. Section 16 and Schedule 2, Part 1 of the Act gives the grounds for repossession of a Scottish Secure Tenancy and Section 14 lays out the procedures for possession.

The Civil Partnership Act 2004

Civil partners should be given the same rights as married couples.

The Equality Act 2010

Bans unfair treatment and helps achieve equal opportunities in the workplace and in wider society. The act covers nine protected characteristics, which cannot be used as a reason to treat people unfairly.

The Housing (Scotland) Act 2010

The Act introduced pre court requirements that every registered social landlord must follow to show that they have taken specific action before proceeding with court action for arrears recovery.

Other Legislation

The Low Income, Low Asset, Debtors etc. Regulations 2008

Bankruptcy and Diligence (Scotland) Act 2007

Debt Arrangement and Attachment (Scotland) Act 2002

Debtors (Scotland) Act 1987

Data Protection Act 1998

The Children (Scotland) Act 1995

The Human Rights Act 1998

Disability Discrimination Act 2005

Matrimonial Homes (Family Protection)(Scotland) Act 1981

Homelessness (Scotland) Act 2003

The following is a brief summary of other RCH policies that are linked to the recovery of rent arrears;

- Allocations
- Customer Complaints
- Customer Care Standards
- Data Protection
- Financial Inclusion

- Tenancy Sustainment and Vulnerable Customers
- Sundry Debt and Former Tenant Arrears Recovery

### **3. Definitions**

The Scottish Social Housing Charter – sets the standards and outcomes that all social landlords should aim to achieve when performing their housing activities. The Charter will help improve the quality and value of services that a social landlord provide and supports the Scottish Government’s long term aim of creating a safer and stronger Scotland. The Charter has 7 sections covering:

1. Equalities;
2. The customer/landlord relationship;
3. Housing quality and maintenance;
4. Neighbourhood and community;
5. Access to housing and support;
6. Getting good value from rents and service charges; and
7. Other customers.

It contains a total of 16 outcomes and standards that social landlords should aim to achieve.

Outcome 11 requires Social Landlords to ensure that tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations. This outcome covers how landlords can help tenants who may need support to maintain their tenancy.

This standard includes tenants who may be at risk of falling into arrears with their rent, and tenants who may need their home adapted to cope with age, disability, or caring responsibilities.

Outcome 13 requires Social Landlords to manage all aspects of their businesses so that tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

This standard covers the efficient and effective management of services. It includes minimising the time houses are empty; managing arrears and all resources effectively; controlling costs; getting value out of contracts; and giving better value for money by increasing the quality of services with minimum extra cost to tenants, owners and other customers: and involving tenants and other customers in monitoring and reviewing how landlords give value for money.

### **4. Policy Statement and Responsibilities**

RCH aims to prevent and minimise arrears owed by our tenants and will constructively and sensitively engage tenants who are in arrears in joint efforts to control and reduce the rent arrears.

The effective management of rent arrears is based on prevention and early intervention, containment of arrears and where necessary taking appropriate legal action against those who fail to pay rent.

RCH is committed to trying to prevent arrears occurring through early intervention. This involves providing comprehensive support and advice at all stages of the application, letting and tenancy process.

### **Applying for a house**

At the point of applying for a home, applicants will be advised on their rental responsibilities including rent due one week in advance, methods of paying and the consequences of non payment of rent.

Applicants will also be provided with information on the support that can be provided by the FWT.

### **When offered an RCH tenancy**

Applicants will be made aware of their rental responsibilities including one week's rent in advance, rent due dates and all other rent related information at the pre tenancy interview. RCH understands the need to ensure that all new and existing tenants are aware of the impact of Welfare Reform.

In order to ensure that tenancies are sustained all applicants, particularly those who have not had a previous tenancy or are deemed vulnerable, will be made aware of other associated costs e.g. Council tax, utility bills etc. Vulnerable customers will be supported to ensure there is a full understanding of the financial commitments involved in obtaining and maintaining a tenancy.

### **When signing the tenancy agreement**

There will be an emphasis on making every new tenant aware of the importance of paying rent and service charges when signing for a tenancy. New tenants will be informed of the different methods available to pay rent and where appropriate encouraged to set up a direct debit.

The introduction of Universal Credit makes a fundamental change to the tenant/landlord relationship. Support will be offered to tenants from HO and FWT to ensure customers are equipped to pay their rent by providing income maximisation services and welfare benefit advice.

### **New tenant visits (Settling in visits)**

In order to identify if there any tenancy sustainment issues including rent arrears all new tenants will be visited within four weeks of start of tenancy by a HO who can offer assistance or advice with any tenancy issues. Where there are arrears, the HO will advise the new tenant on what action they should be taking and the support that can be offered.

### **Existing Tenants**

Tenants will be notified in writing or by phone or text or by visit from staff as soon as an arrear is identified. HO will contact the tenant to discuss the arrear and if appropriate offer the services of the FWT.

Staff will try to have personal contact with the tenant where a rent arrear is causing concern. This will normally be when the rent arrear is increasing, or the tenant is not engaging with staff to deal with the arrear.

### **General Support to all tenants**

As well as having easy access to HO, tenants will be offered the services of the FWT as appropriate. Our IT system will be used to record accurately all actions taken and agreements made. In cases of cancelled housing related benefit, the FWT or HO will contact tenants to offer assistance.

All HOs are trained to have a working knowledge of welfare benefits and financial inclusion issues to enable them to be proactive in giving advice and support to tenants. To allow tenants to pay their rent in the way best suited to them RCH offers a variety of payment methods including housing benefit, direct debits, standing orders, telephone payments, payment cards and cheques. There is a financial advice page on the RCH website which contains advice on financial matters, welfare benefits and links to the money advice service and other budget planning tools.

RCH are introducing self serve options for our customers to allow them to access their rent accounts online and make payments.

Rent statements are available to tenants on request by the on-line tenant portal or by usual contact methods.

### **Control of rent arrears.**

RCH will maintain accurate and effective monitoring systems to identify arrears at an early stage. When arrears do occur the staff will make contact with the tenant within targeted timescales as set out in the arrears procedure.

Personal contact is a priority in dealing with arrears. This will be done by house visits, interviews in our office or phone calls. Staff will assist the tenant to try and prevent arrears escalating to a level where court action would be appropriate. At every level of arrear tenants will be encouraged to use the services of our FWT.

RCH will attempt to make a realistic and affordable arrangement with a tenant in arrears. This may include payments from benefits through third party deductions. The tenant will be given a written copy of the arrangement and be given clear advice on the possible consequences of not maintaining payments, including losing their home.

No escalated action will be taken while a tenant is paying in accordance with an agreed arrangement. Before a Notice of Proceeding (NOP) is served all the Pre Action Requirements must be met as set out in the Housing (Scotland) Act 2010.

Coronavirus pandemic arrangements are outlined at appendix 1.

### **Legal Action**

RCH recognise that taking legal action against a tenant is a serious matter and we will only initiate legal action where the arrear is causing concern either by the level of the arrear and/or by the tenant not making reasonable efforts to address the issue.

### **Delegated Authority**

The Service Improvement Manager, Area Team Leaders and HO (within the guidelines and procedures that form part of this policy) have delegated authority to take necessary action to control arrears, in full consideration of the individual circumstances of each case.

Managers will have the authority to pursue serious arrears through court action to the point of obtaining decree for repossession.

“The decision on whether or not to enforce the decree will be taken by an Executive Director who has been given delegated authority from the Board to approve evictions. The number of evictions carried out are reported to the Board annually and the Services and Landlord Operations-Committee at each committee meeting.

### **Notice of Proceedings**

A Notice of Proceedings (NOP) will only be issued when all the Pre Action Requirements have been met. At the first stage a NOP will be issued to the tenant and everyone over the age of 16 staying at that address. Staff will take reasonable steps to ascertain who is living at the property. The NOP will clearly show the tenant the seriousness of the arrear and the association's intent to proceed with legal action unless action is taken to address the matter. The NOP will be hand delivered.

Once legal proceedings have been initiated by the NOP the association will continue to offer advice and support to try and avoid any cases reaching court.



Where arrangements to pay are not adhered to or the arrears are continuing to increase, the association will seek a decree for recovery of possession and payment.

### **Pre-Action Requirements**

The Pre-Action Requirement The Housing Scotland Act 2010 has established the requirement for Registered Social Landlords to meet a number of conditions, together referred to as the Pre Action Requirements, and to document how they have done so, before beginning legal action to end a tenancy. The Associations Notice of Proceedings outlines where we have fulfilled the necessary requirements.

### **Section 11 notices**

RCH shall apply the duties expected of it within the provisions of Section 11 of the Homelessness etc (Scotland) Act 2003. Section 11 places a duty on landlords to inform the relevant local authority when they raise proceedings for possession of a property. The duty applies to all landlords with the exception of local authority landlords themselves. The aim of placing a duty on landlords to inform local authorities of repossession proceedings is to alert authorities to households at risk of homelessness.

Local authorities have statutory duties to people who are homeless or threatened with homelessness and early notice of potential homelessness means that they may be able to respond on an individual basis. This might include the early provision of advice and information to tenants facing eviction, including discussion of rights and responsibilities.

### **Performance Monitoring and Complaints**

Performance on rent arrears is monitored through by the internal audit process, our benchmarking group, the SLOC and at Management Board level. RCH report details of our performance through our Annual Report and other forms of communication. The Scottish Housing Regulator receives our performance reports through the Annual Return on the Charter.

We have a Complaints Policy and Procedure that lets customers who are dissatisfied with our service raise a complaint. This includes complaints relating to equality matters. If a customer remains dissatisfied after using the complaints procedure they can appeal to the Scottish Public Services Ombudsman. This is in addition to their right to seek independent advice from a solicitor or any other appropriate body.

### **Additional assistance offered by River Clyde Homes**

In addition to meeting the legal requirements River Clyde Homes will be as helpful and supportive in managing arrears as possible by:

- Ensuring rent payment options are convenient and accessible.
- Preventing tenants from falling into arrears through early intervention.
- Ensuring that tenants are aware of the consequences of not managing their arrears or keeping to agreements.
- Making best use of all available options for arrears recovery.
- Ensuring all arrears management processes are consistently applied and actions taken recorded.
- Promoting the Financial Wellbeing Service to ensure that tenant's incomes are maximised.
- Emphasising the importance of personal contact between Customer Services staff and tenants when arrears accrue.
- Ensuring that tenants are provided with detailed, easy to understand information regarding the rent and service charges they are required to pay and the range of options to do so.
- Working with external partners to provide advice and support on issues such as fuel poverty and other debts.

## 5. Equality Impact Assessment

An equality impact assessment has been completed and assurance provided that this policy does not discriminate against any of the protected groups.

## 6. Review

This policy will be reviewed in its entirety every 3 years, unless an earlier review is required due to changes in legal, regulatory or best practice requirements, or because monitoring and reporting reveals that a change in policy is required sooner.

## Appendix 1

### Coronavirus Pandemic

The coronavirus pandemic has the potential to negatively impact on a tenants ability to maintain rent payments and the Scottish Government have introduced additional guidance for landlords during the period of the pandemic.

River Clyde Homes 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, RCH shall agree to offering tenants time to repay any arrears. A repayment plan shall be assessed with the support of FWT 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.

The repayment plan may include a date when full repayment of the arrears will be made, an additional lower than usual additional payment weekly or monthly for a short period or an extended repayment period to clear the debt. 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**

RCH 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 up to 6 months.

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 landlords 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 tier 3 or 4, RCH 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 will be in place until at least 31 March 2021. Any cases that had already been raised before 7 April 2020 are assessed by the original rules.