

Rent Arrears Policy

Interim Review:: June 2018

Next Review: 2021



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RENT ARREARS POLICY

1. Introduction/Purpose

- 1.1 The purpose of this Policy is to set out Rosehill's approach to the prevention, management and recovery of rent arrears.
- 1.2 Rosehill is aware that within its area of operation, there is a high level of low income households.
- 1.3 As such this Policy was developed to be responsive to the needs and circumstances of tenants and to incorporate the underlying principles of tenancy sustainment and prevention of homelessness. Rosehill is committed to working with and assisting its tenants to address tenancy problems such as rent arrears through a series of preventative and reactive measures.
- 1.4 The rental income is Rosehill's main source of income and therefore must be maximised to ensure adequate resources are available to provide services and maintain and improve its housing stock.
- 1.5 Therefore the main aims of this Policy are to maximise the collection of rent and to minimise the loss of rental income through preventative and reactive measures whilst being sensitive and responsive to the needs of tenants in arrears.

2. Legal and Regulatory Framework

- 2.1 Whilst this Policy sets out to explain Rosehill's approach to rent arrears it must do so in the context of legal and regulatory requirements. Therefore the following relevant legislation has been taken into account in the development of this Policy:
 - Housing (Scotland) Act 2001
 - General Data Protection Regulation
 - Equality Act 2010
 - Homelessness etc (Scotland) Act 2003
 - Housing (Scotland) Act 2010

2.2 The Scottish Social Housing Charter

2.2.1 The Social Housing Charter came into effect in April 2012 and this sets the standards and outcomes that all social landlords should aim to achieve when performing their housing activities. The Charter replaces the Performance Standards and the outcomes relevant to this Policy are:

1. Equalities

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.

2 Communication

Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.

3. Participation

Social landlords manage their businesses so that tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with.

9 Housing Options

Social landlords ensure that people at risk of losing their homes get advice on preventing homelessness.

11. Tenancy Sustainment

Social landlords 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.

13. Value for Money

Social landlords 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.

14. Rents and Service Charges

Social landlords set rents and service charges in consultation with their tenants and other customers so that a balance is struck between the level of services provided, the cost of the services, and how far current and prospective tenants and other customers can afford them.

2.2.2 Social landlords are responsible for meeting the standards and outcomes set out in the Charter. The Scottish Housing Regulator is responsible for monitoring, assessing and reporting on how well social landlords, individually and collectively, achieve the outcomes.

2.2.3 In line with the regulatory principles, the Regulator's approach to monitoring landlords' achievement of the outcomes and standards in the Charter will be based on the landlords' performance information and their own assessment of their performance. Therefore, for each year ending on 30th September, we will be expected to:

- Measure and assess our performance in progressing towards or achieving the Charter outcomes and standards
- Provide the Regulator with some key performance information on our achievement of the outcomes and standards
- Report our performance to tenants and other service users who use our services.

3. Preventative Measures

3.1 Affordability

3.1.1 There is a crucial balance to be achieved when setting and reviewing rent levels. Whilst it is an important aim for Rosehill to provide affordable rents to its tenants it is equally important that rents are sufficient to cover our commitments. These include running costs, loan repayments, and our ability to provide services and maintain and improve our housing stock.

3.1.2 We periodically monitor information gathered from the Regulator to compare our rent levels against other landlords at local, city wide and national level. In addition we monitor and compare rent increase proposals of other local and city wide landlords.

3.1.3 We also utilise the SFHA's revised Affordability Guidance and assess our rent levels against its affordability tool.

3.2 Methods of Payment

3.2.1 We operate a plastic card payment system with allpay.net Ltd. This system allows tenants to pay their rent at any Post Office and any outlet, which displays the “pay point” sign. In addition, to make payments even more convenient, tenants have a choice of paying by: telephone; internet; text; allpay App and Direct Debit.

3.2.2 In addition to the allpay system, tenants have the choice of paying by: standing order; posting or handing in a cheque to our office; internet banking and chip & pin (we have a card machine in our office).

3.2.3 The flexible payments system provides tenants with a more convenient and simpler way of making payments.

3.3 Information about Rent Levels

3.3.1 We recognise the importance of ensuring people are fully aware of the cost of renting a house with Rosehill before entering into a legally binding tenancy agreement. As such we publish information about our rent levels as follows:

Housing Application Information Packs

3.3.1.1 A breakdown of average rent levels for typical house sizes and types is included as part of the information pack for housing applicants (external and internal applicants).

Housing Applicants – Annual Review

3.3.1.2 A review of our waiting lists (both external and internal) takes place each year. When notifying applicants of the outcome of the review a list of our average rents for typical house sizes and types will be issued.

Website

3.3.1.3 Information about the type and size of properties and relevant rent levels is available on our website.

3.4 Housing Applicants – Verification Visits

3.4.1 Verification visits to applicants' homes are generally carried out at the point

they are being considered for rehousing. At this visit, upon verifying the applicant's circumstances and their housing need, staff will provide generic information about Rosehill's properties and associated rent costs. Applicants will be encouraged to consider the affordability of the rent in the event a future offer of housing is made.

3.5 Viewing Properties

3.5.1 When viewing a property, the prospective tenant is given details of the monthly rent, when it is due and the amount due for the first month, depending on the proposed date of entry.

3.5.2 Perspective tenants will be encouraged to take into account the amount of the rent and their ability to pay it when deciding whether or not to accept an offer of housing.

3.6 Signing the Tenancy Agreement

3.6.1 At the stage of signing the tenancy agreements, a signing up package is provided to the tenant. This includes amongst other things a housing benefit form. The signing up package should also include, where possible, the rent card for the new tenant.

3.6.2 If there are any doubts as to whether the tenant would be required to pay full rent, a housing benefit form will be issued. Staff can assist tenants with the completion of the form if needed. However the tenant must submit the form to the Housing Benefit Office either by post or by hand delivery.

3.6.3 At the point of signing up, the tenant will be advised of their responsibilities in relation to the payment of rent:

The tenant is responsible for paying the rent on or before the 28th day of each month.

The tenant is responsible for keeping in regular contact with Housing Benefit until their application has been processed and they are in receipt of an award letter.

Tenants must return the form direct to the Housing Benefit Office as quickly as possible. Arrears caused by the tenant not returning any housing benefit forms will be treated by Rosehill as actual rent arrears and could ultimately lead to legal action for recovery of possession of the house.

Every tenant in receipt of housing benefit must notify the Housing Benefit Section immediately if there is any change in circumstances which might affect their level of housing benefit. This should be done by writing to the Housing Benefit Section with the necessary details. A copy should also be given to Rosehill.

3.6.4 New Tenants are taken through key clauses in the Scottish Secure Tenancy and are reminded that this is a legally binding agreement.

3.6.5 The relevant tenancy clauses relating to rent obligations are:

Clause 1.5: The rent is £ every calendar month payable in arrears on the 28th of each month.

Clause 1.10: If you break any part of the Agreement, we may:

- Take legal action against you including eviction proceedings; AND
- Charge you for any resulting losses we have suffered including any legal expenses as assessed by the court; AND
- Charge you for any costs incurred by the Co-operative when carrying out duties which are your responsibility. This includes, but is not limited to, maintenance of garden ground and stair cleaning in tenements.

3.6.6 The tenants are also advised of Rosehill's responsibilities:

Rosehill will notify the tenant of rent arrears as quickly as possible after the end of each month.

Rosehill, with the permission of the tenant, will liaise with the Housing Benefit Section if they are claiming housing benefit and experiencing difficulties.

3.7 Welfare Rights Service

3.7.1 We provide a full time, in-house Welfare Rights Service which is delivered by our Welfare Rights Advisor who is part of our Income Maximisation Team.

3.7.2 As standard all new tenants will be booked in for an appointment with our Welfare Rights Advisor immediately following the sign up process.

3.7.3 All new tenants will be encouraged to take up this appointment to enable a financial/benefit health check to be undertaken.

3.7.4 We view this as a crucial preventative measure as from the outset there is the potential to identify financial difficulties and enable possible solutions to be considered and followed through if appropriate.

3.8 Settling in Visits

3.8.1 House visits will be carried out to all new tenants within six weeks of their date of entry. Such visits will normally be carried out by a Housing Assistant in the Generic Team. If appropriate the Housing Assistant and/or the Welfare Rights Advisor from the Income Maximisation Team will also attend.

3.8.2 The visit provides staff with the opportunity to repeat advice on various issues, including payment of rent. If a housing benefit claim has previously been made, staff will ask tenants for an update on the situation if required. It can be agreed for staff to liaise with the Housing Benefit Office in an effort to resolve any problems with a tenant's claim.

3.8.3 The Housing Officer in the Generic Team carries out a follow up settling in visit within three months of the tenant moving in. Again if appropriate the Housing Assistant and/or the Welfare Rights Advisor from the Income Maximisation Team will also attend.

3.9 Access to Information

3.9.1 Tenants receive a sign up pack when they first join Rosehill and this includes:

- Information leaflet on "How to make a payment"
- Information leaflet on "The importance of paying your rent"

3.9.2 Tenants can request a rent statement at anytime but as a matter of course all tenants are issued rent statements twice a year (April and October).

3.9.3 General advice about dealing with rent arrears is published periodically in the quarterly newsletters.

3.9.4 The Welfare Rights Service is promoted through our website and regular articles in the quarterly newsletters.

3.9.5 We provide updates on Welfare Reform through our newsletters.

3.10 External Support - Signposting

- 3.10.1 We will regularly promote the existence of our own Welfare Rights Service. However we recognise that some tenants may wish to use other external agencies for such advice and support. Therefore tenants, where necessary, will be signposted to other relevant agencies such as Greater Pollok C.A.B.

4. Arrears Management

- 4.1 If a tenant does fall into rent arrears Rosehill will respond promptly and a series of measures will be implemented to recover the arrears.

- 4.2 The level and cause of the arrears will determine what action will be taken. The action taken will range from issuing of letters, house visits, arrears direct deductions, wages arrestments, suspension of transfer applications and ultimately eviction proceedings.

- 4.3 The attached procedures describe the process involved in recovering rent arrears and clearly demonstrate the role of different staff at various stages in the process.

- 4.4 We place great value on face to face contact with tenants when dealing with such tenancy issues as rent arrears. Therefore it is our position that home visits will be the foremost method of contact with tenants which will be supplemented by other methods e.g. texting, phoning, etc.

4.5 Communicating with Tenants

- 4.5.1 It is crucial that when a tenant first falls into arrears that early intervention is taken. Staff must contact tenants quickly and can use various methods but primarily home visits followed by telephone calls, letters, text and email messages.

- 4.5.2 Therefore where possible the first point of contact with tenants should be a home visit as this will give tenants an opportunity to speak face to face with a staff member in the comfort of their own homes about any difficulties they may have. Telephone calls are an acceptable form of contact but should be done in addition to home visits and not instead of.

- 4.5.3 Where staff are using text and email messaging as a means of contact no confidential or sensitive information will be sent but merely a request for the tenant to get in touch about an important tenancy matter. Again these methods should be used in addition to home visits and not instead of.

4.6 Notice of Proceedings for Recovery of Possession (NPRP)

4.6.1 We view such legal action as a last resort. Every effort will be made to avoid such a drastic course of action.

4.6.2 Pre Action Requirements

4.6.2.1 Under the Pre-Action Requirements, which came into force in August 2012, landlords must undertake a series of steps and be able to demonstrate such steps have been taken prior to commencing any legal action against a tenant in relation to rent arrears.

4.6.2.2 The Requirements include giving clear information about the tenancy agreement and the unpaid rent; making reasonable efforts to give help and advice on eligibility for housing benefit and other types of financial assistance and making reasonable efforts to agree with the tenant a reasonable plan for future payments.

4.6.2.3 The Housing Services Manager is responsible for ensuring that all arrears cases being put forward for legal action have fully met the Pre Action Requirements.

4.6.3 Qualifying Occupiers

4.6.3.1 The Housing (Scotland) Act 2001 gives 'qualifying occupiers' the right to be heard in court. Qualifying occupiers are family members aged at least 16 years living in the house or other adult members who have Rosehill's consent to live there e.g. lodger.

4.6.3.2 Therefore we are required to serve a NPRP on all qualifying occupiers as well as the tenant(s). Prior to serving a NPRP we are required to make all reasonable efforts to establish if there are any qualifying occupiers in the house.

4.6.3.3 The decision to issue a NPRP is made by the Housing Services Manager and in her absence by the Depute Director. The Housing Services Manager must consider the following before making her decision:

- The background to the case
 - That all reasonable steps have been taken to try and get the tenant to address the problem of their rent arrears
 - That the Pre Action Requirements have been fully met
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- That the necessary checks have been carried out to establish if there are any qualifying occupants
- That the necessary arrangements are in place to notify the Welfare Rights Officer (Social Services) that such action is being taken in accordance with Section 11, Homelessness etc (Scotland) Act 2003.

5. The Legal Process and the Role of the Management Committee

- 5.1 The Management Committee has delegated authority to the Depute Director to decide whether or not to pursue and then subsequently enforce a decree for eviction.
- 5.2 Before making such a decision the Depute Director will hold a case conference with the Housing Services Manager to determine the appropriate course of action.
- 5.3 The Management Committee will receive regular legal action reports showing the number of cases involved at various stages of the legal process. In addition the Management Committee will receive reports on any potential eviction cases. These reports will provide some information on the individual cases including the current arrears balance, the action taken to date, details of any arrangements made and what the tenant has or hasn't done to deal with his/her rent arrears.
- 5.4 The Management Committee regards eviction as a last resort and expects that every other means of dealing with the matter will have been attempted. The purpose of the above reports is to demonstrate that all available options have been exhausted and compliance with the Pre Action Requirements prior to any decision to enforce a decree for eviction.

6. Welfare Reform

- 6.1 We are aware that the array of Welfare Reforms introduced are likely to impact many of our tenants. Reforms such as the under-occupancy rules; benefit cap; change from DLA to PIP and the introduction of Universal Credit, including direct payments, have the potential to present significant challenges to tenants.
- 6.2 In response to the Welfare Reforms we have undertaken various steps including:
- The creation of a dedicated Team known as Income Maximisation which focuses on arrears prevention, management and recovery.

- The provision of our own Welfare Rights Service. The Welfare Rights Advisor is part of the Income Maximisation Team and is responsible for working with tenants to assist in the maximisation of their incomes where possible.
- Publish articles in our newsletters as and when needed to raise tenants' awareness of the various Reforms.
- Developing a tenant profile – to ensure we are in the best position to provide the right advice and support to our tenants we need to have a better understanding of their needs. We will continue to try and gather as much relevant information about our tenants and their household members.

6.3 We are committed to advising and assisting our tenants to cope with the impact of the various Welfare Reforms.

6.4 We will not take formal legal action against any tenant affected by the various Welfare Reforms where that tenant is engaging with us and making every effort to address any rent arrears they may have.

7. Data Protection

7.1 We will not pass on any information relating to the tenant's rent account to a third party without the written consent of the tenant unless we are legally required to do so.

7.2 We are happy to work with organisations on the tenant's behalf to address problems of rent arrears, such as Citizens Advice Bureau. However such organisations must forward a signed mandate from the tenant to us prior to any information being released.

7.3 The Housing (Scotland) Act 2001 requires that qualifying occupiers must be served a Notice in addition to the tenant. In this case the rights of qualifying occupiers supersede the Data Protection Act provisions. Qualifying occupiers require information about the intended legal action against a tenant to enable them to defend their legal rights.

7.4 Data Protection - GDPR

7.4.1 On the 25th May 2018 the legislation governing data protection changed with the introduction of the General Data Protection Regulation (GDPR).

7.4.2 We hold a variety of Personal Data relating to individuals including tenants, waiting list applicants, factored owners, other service users, employees and Committee Members. Our Privacy Policy sets out the

basis on which we can process and share such data with third parties, it also sets out how we will securely store individuals' data, whether electronically or in paper format. It also provides information on individuals' rights under GDPR including: to view personal data held about them by us; to request a restriction of processing of their data; the right to be forgotten and a right to object to us processing their data. In terms of the rights to be forgotten and to restrict or object to processing of Personal Data, any such requests will require to be considered on their own merits and legal advice will need to be obtained in some circumstances. We have the responsibility for accepting or refusing such requests and will do so in writing.

- 7.4.3 Under GDPR we are required to provide all customers whose Personal Data we hold with a Fair Processing Notice (also known as a Privacy Notice). The Notice sets out the Personal Data we process and the basis for doing so.
- 7.4.4 We will only keep and process Personal Data for the original purpose we gathered it for and we will not keep it for any longer than necessary. Attached to our Privacy Policy is a table of Retention Periods for Personal Data held and processed by us. We recognise that not all Personal Data can be processed and kept for the same period of time, and this will vary depending on the individual circumstances of each person whose Personal Data we hold.
- 7.4.5 The Privacy Policy sets out what should happen in the event of a Data breach e.g. does the breach require reporting to the Information Commissioner's Office and whether the individual affected should be notified. Timescales are set out for dealing with data breaches.
- 7.4.6 Full copies of our Privacy Policy are available upon request at our office or from our website www.rosehillhousing.co.uk

8. Performance Management

- 8.1 In addition to reports on legal action taken and potential eviction cases

Committee will also receive performance information about rent arrears on a quarterly basis as follows:

- Rent collected as a percentage of total rent due in the reporting year
- Total Gross Rent Arrears as a percentage of total rent due in the reporting year

9. Tenant Participation

- 9.1 We are a tenant focussed organisation and as such we are committed to involving tenants in all aspects of our work and ensuring that tenants are included, informed and consulted about decisions that have an impact on the way their homes are managed.
- 9.2 As part of this commitment we will involve our tenants in the development of our policies and seek feedback where appropriate. We will ensure that any significant changes to this Policy and other Policies which will affect our tenants will be the subject of consultation.

10. Equality and Diversity

- 10.1 We are committed to ensuring equal opportunities and fair treatment for all people in its work. In implementing this Policy, we will provide a fair and equal service to all people, irrespective of factors such as gender, race, disability, age, sexual orientation, language or social origin, or other personal attributes.

11. Risk Management

- 11.1 In all the key areas of our business we need to consider any risks which may arise. To this end we have in place a robust Risk Management Policy and from this flows our Risk Register. We have identified our “Top 5” risks which are regularly monitored by our Management Team and Audit Sub-Committee.
- 11.2 Key to the mitigation of the risks associated with rent arrears and the subsequent impact on our rental income is having a comprehensive policy in place to govern the prevention, management and recovery of rent arrears.
- 11.3 To ensure we continue to manage the associated risks we will periodically review this Policy to ensure compliance with all legislative requirements and regulatory and best practice guidance.

12. Complaints Procedure

- 12.1 We aim to get things right first time and provide a good quality service to our tenants. However, we acknowledge that things can go wrong and that some tenants may be unhappy with the service provided.
- 12.2 We promote our Complaints procedure through our website and periodic

articles in our newsletters. In addition we initially issued all of our tenants with a copy of the new Procedure introduced in October 2012. This information leaflet is also issued to all new tenants as part of the signing up pack.

.13. Policy Review

- 13.1 This Policy will be reviewed at least every three years or sooner to ensure it continues to reflect current thinking and practice and to comply with legislative requirements and regulatory guidance.