

Former Tenant Rent Arrears Policy

*Interim Review: May 2018
Next Review: 2019*



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FORMER TENANT ARREARS POLICY

1. Introduction/Purpose

- 1.1 The purpose of this policy is to set out Rosehill's position in relation to the management of former tenant rent arrears.
- 1.2 Rosehill aims to minimise the existence of former tenant arrears by using preventative measures in addition to having effective systems in place for recovering 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
- Data Protection Act 1998
- Equality 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.

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. Ending a Tenancy

3.1 A tenancy can be ended in the following ways:

1. The tenant provides written notification, under the terms of the Scottish Secure Tenancy Agreement, of his/her intention to end the tenancy.
2. A transfer of tenancy to the tenant's partner.
3. The death of the tenant (and the succession process may or may not apply).
4. Through the abandonment process as detailed in the tenancy agreement.
5. By order of a court on one or more grounds specified in the tenancy agreement.

3.2 The way in which the tenancy is brought to an end will determine the course of action undertaken if any rent arrears exist.

4. Preventative Measures

4.1 Provision of Information

4.1.1 It is important that tenants have access to information, which clearly sets out their responsibilities in relation to ending their tenancy, including making any final payments due to Rosehill. Such information is contained in the tenancy agreement and the tenants' handbook. In addition periodic articles about what is required when ending a tenancy are published in Rosehill's newsletters.

4.2 Prompt Notification

4.2.1 When a tenant first notifies Rosehill of his/her intention to end the tenancy, the Housing Officer/Housing Assistant dealing with the termination will check the rent account and advise the tenant of the amount of rent due by the tenancy end date. This may simply be the normal rental charge, however there may also be rent arrears on the account, which would need to be addressed.

4.2.2 A pre-termination of tenancy visit will be arranged with the tenant within three working days of staff being notified of the tenant's intention to end his/her tenancy. This visit is crucial for a variety of reasons including providing an opportunity to speak with the tenant about the rent due and any rent arrears.

4.2.3 Where possible staff will attempt to get the tenant to pay the full balance due by the tenancy end date. Any agreement reached to pay the balance in full or to make a suitable repayment arrangement will be confirmed in writing to the tenant within two days of the agreement being reached.

5. Arrears Management

5.1 It is important that where former tenant arrears exist adequate and effective recovery processes are in place.

5.2 Repayment Agreements

5.2.1 Where tenants can not pay the full balance due by the tenancy end date, suitable and realistic repayment agreements should be set up.

Where possible such agreements will be reached with tenants prior to them moving out. Any repayment agreement reached will be monitored by the Housing Officer/Housing Assistant (Income Maximisation Team) for regular payments.

5.3 Payment Options

5.3.1 To facilitate the recovery of arrears, former tenants will be given a choice of payment options. Former tenants can continue to use their rent card and pay through the existing system i.e. post office, outlets with “pay point”, by telephone, internet and by text. This is the most preferable option. However former tenants can, if necessary, send cheques to Rosehill’s office. Cheques must be made payable to “Rosehill Housing Co-operative Ltd”. In exceptional circumstances payments may be made, in person, at Rosehill’s office.

5.4 Ongoing Contact

5.4.1 Where former tenants are not keeping to the repayment agreements, the Housing Officer/Housing Assistant will issue reminder letters and, if appropriate, carry out house visits.

5.5 Debt Collection Services

5.5.1 Rosehill will consider using the services of a Debt Collection Agency in the following circumstances:

- Where the tenant has persistently failed to keep to the repayment agreement and staff have made a number of attempts to contact the tenant through letters and house visits if applicable.
- Where Rosehill does not have a forwarding address for a tenant e.g. the tenant has abandoned the house. In such cases the Agency will be asked for a trace and collection service.

5.5.2 The value of the rent arrears and the number of cases involved will determine the feasibility of referring the cases to a Debt Collection Agency. Such decisions will be made by the Housing Officer in conjunction with the Senior Housing Officer.

6. Legal Action

6.1 When the former tenant fails to co-operate in paying rent arrears and has not made any re-payment arrangements or breaks such

arrangements, Rosehill will consider undertaking legal action. Such a decision will be made by the Housing Officer in conjunction with the Senior Housing Officer.

6.2 Where necessary Rosehill will use the following legal remedies:

Wages Arrestment
Small Claims Action

6.3 Rosehill will seek to recover legal costs as awarded by the court.

7. Write Offs

7.1 It is important that when managing former tenant arrears, to recognise that some former tenant arrears are unlikely ever to be recovered for a variety of reasons. There is little point in retaining such debts in the live system, ultimately clogging up the system. It is not the best use of staff resources to pursue debts where there is little possibility of any return.

7.2 Therefore clear criteria for writing off such bad debts is required. When determining what debts should be written off, the following factors should be taken into account:

1. the level of arrears
2. the age of the arrears
3. the financial circumstances of the former tenant
4. the whereabouts of the tenant

7.3 When considering what course of action to take, it is necessary to weigh up the cost of such action against the value of the debt itself. If it is deemed to be uneconomical to Rosehill to pursue certain arrears, then these should be written off.

7.4 An annual provision for bad debts is made within Rosehill's budgets. This will enable such bad debts to be written off.

7.5 Types of cases to be written off:

1. Where the arrears are small i.e. under £100.00 and at least a year old.
2. Where there is no forwarding address and no contact has been made within 12 months and the trace service of a Debt Collection Agency has been unsuccessful.
3. Where the tenant has died and there is no estate to claim.

4. Where the former tenant is unlikely to have the financial means to clear the debt.
 5. Where it becomes uneconomical to pursue the former tenant.
- 7.6 A record will be kept of all cases, which have been written off. In the event that a former tenant approached Rosehill for rehousing, the records would be checked for former arrears. If any exist the balance would be resurrected and the former tenant pursued.
- 7.7 Where the arrears balance is less than the month's rent charge, this would not prevent the former tenant from being rehoused by Rosehill. However former tenants will be encouraged to address any such outstanding balance.
- 7.8 Where any arrears are in excess of a month's rent charge and the former tenant has failed to keep to any repayment agreement, this will result in the former tenant's application for housing being suspended until the matter is resolved.

8. Performance Management Information

- 8.1 As part of the Quarterly Performance Management Report Committee is presented with information on the gross rent arrears which includes current and former tenant arrears.
- 8.2 In addition twice a year (half year point and year end) Committee will receive a summary of the individual former tenants cases including progress to date.
- 8.3 Prior to the end of the financial year Committee will receive a report on proposed write offs for approval.

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 former tenant 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 former tenant 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. Data Protection

- 13.1 On the 25th May 2018 the legislation governing data protection changed with the introduction of the General Data Protection Regulation (GDPR).
- 13.2 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.

- 13.3 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.
- 13.4 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.
- 13.5 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.
- 13.6 Full copies of our Privacy Policy are available upon request at our office or from our website www.rosehillhousing.co.uk

14. Policy Review

- 14.1 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.