

Arrears Management Policy

Policy Title:	Arrears Management Policy
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Date of Approval:	3 rd July 2024
Date for Next Scheduled Review:	June 2027
Equality Impact Assessment Complete:	No



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ARREARS MANAGEMENT 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 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.
- 1.3 The main aims of this Policy is 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
- Housing (Scotland) Act 2014
- Welfare Reform Act 2012
- Human Rights Act 2000
- Pre Action Requirements Order 2012
- Bankruptcy Act 2016

- 2.2 The Scottish Social Housing Charter

- 2.2.1 The Social Housing Charter came into effect in April 2012 and was reviewed in 2017 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.

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 31st March, 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. We will assess our rent levels against recognised affordability measures.

3.2.1 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 on our website as well as giving information in housing application packs, when offering a property, at a property viewing and when signing a tenancy. It is crucial that prospective tenants are aware of the cost of renting a home from Rosehill.

3.2.2 At the point of signing the tenancy agreement, the tenant will be advised of their responsibilities in relation to the payment of rent.

3.2.3 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.

3.2.4 The tenants will also be 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 or DWP if they are claiming housing cost benefits and experiencing difficulties.

3.2.5 Tenants can request a rent statement at any time but as a matter of course all tenants are issued rent statements annually (April).

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

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

3.3 Tenancy Start

3.3.1 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 Section.

As standard details of all new tenants will be passed to the Income Maximisation Section prior to sign up to enable an appointment to be booked with our Welfare Rights Advisor. A financial/benefit check will be undertaken.

On the day of the sign up a member of the Income Maximisation Section will meet with the tenant and discuss the tenants preferred method of payment. The tenant will be encouraged to complete a Direct Debit Mandate.

3.3.2 A member of the Generic Section will carry out a house visit to all new tenants within the first few weeks of their date of entry. The Income Maximisation Section will provide a rent statement on the day of the visit.

These visits provide staff with the opportunity to repeat advice on various issues, including payment of rent. The visits are also essential to assess any support needs the new tenants may have which haven't been evident earlier.

3.3.3 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"
- Standing Order Mandate
- Direct Debit Mandate

3.4 External Support - Signposting

3.4.1 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. and Money Matters.

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, emails, phone calls, house visits, UC direct payments, wages arrestment, suspension of transfer applications and ultimately eviction proceedings.

4.3 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.

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 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.

4.4 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.

4.5 Pre Action Requirements

4.5.1 We view legal action as a last resort and all other means of supporting the tenant to pay their rent will be attempted prior to starting legal action.

4.5.2 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.

4.5.3 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/Universal Credit and other types of financial assistance and making reasonable efforts to agree with the tenant a reasonable plan for future payments.

4.5.4 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 as well as any additional measures that form part of Rosehill's processes.

4.6 Qualifying Occupiers

4.6.1 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.

4.6.2 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 The decision to issue a NPRP is made by the Housing Services Manager and in her absence by the 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
- 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 Director to decide whether or not to pursue and then subsequently enforce a decree for eviction.

Before making such a decision the Director will hold a case conference with the Housing Services Manager to determine the appropriate course of action.

5.2 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.

5.3 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. Former Tenant Arrears

6.1 Rosehill will actively pursue rent arrears owed by former tenants. When a termination of tenancy notice is received, tenants with rent arrears are made aware of the debt and encouraged to either pay the balance in full or enter into a repayment plan at an amount that is affordable to the individual and is also acceptable to the organisation.

6.2 Where attempts to recover arrears by a variety of contact methods have been unsuccessful, or the former tenant failed to provide a forwarding address, we will arrange for a trace to be carried out by a Debt Collection Agency.

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 arrears
3. The financial circumstances of the former tenant
4. The whereabouts of the former 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. Written off debts can be written back on should the former tenant's circumstances change and they are in a

position to pay the debt. Debts over 6 years old cannot be pursued through the small claims court of wage arrestment.

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 under £100 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 passed away and there is no estate to claim from

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 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 as per the Suspension Policy.

8. Data Protection

8.1 On the 25th May 2018 the legislation governing data protection changed with the introduction of the GDPR. Following the UK's exit from the EU, and the end of the transition period which followed, the GDPR formed part of the retained EU law and became the UK GDPR which together with Data Protection Act 2018 constitute the UK's data protection legislation.

9. Performance Management

9.1 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

9.2 Prior to the end of the financial year Committee will receive a report on proposed write offs for approval.

10. Tenant Participation

10.1 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.

10.2 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.

11. Equalities and Human Rights

11.1 Rosehill's Equality and Human Rights policy (January 2024) outlines our commitment to zero tolerance of unfair treatment or discrimination towards any individuals or group of individuals, particularly those belonging to a protected characteristics (as defined by the Equality Act (2010)). This includes ensuring everyone has equal access to information and services, by making copies of all policies available in a variety range of alternative formats (i.e. large print, translated etc.) in response to reasonable requests.

Rosehill is aware of the potential for policies to inadvertently discriminate against individuals or groups of individuals. To help address this we carry out Equality Impact Assessments (EIA) to help identify any part of a policy that may be discriminatory so this can be addressed (please see Section 9 of our Equality and Human Rights policy for more information).

As this policy applies equally to all groups, Rosehill (with Committee approval) made the decision not to carry out an Equality Impact Assessment on this policy.

12. Risk Management

- 12.1 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 material risks which are regularly monitored by our Management Team and Audit Sub-Committee.
- 12.2 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.
- 12.3 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.

13. Complaints Procedure

- 13.1 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. We have a Complaints Policy and Procedure. The procedure can be used where there is dissatisfaction with this Policy or its operation. Our Complaints Policy is available in our office or online at 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.
- 14.2 Any tenant wanting to get involved with the review of any Rosehill policy can do so. Further details of this can be found in our Tenant Participation Strategy. Copies of this are available in this office or online at www.rosehillhousing.co.uk.