Rent Arrears Policy
November 2023

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Our Vision, Values & Strategic Objectives

Our Vision

Excellent housing in vibrant communities.

Our Values

Respect

We see the positive in everyone, especially our tenants. We treat everyone fairly, regardless of age, race, gender, sexuality or background. We ask for opinions even if we know we might not like what we hear. And we address people's concerns in any way we realistically can.

Integrity

What we say in public is the same as what we say behind the scenes. If we say we'll do something, we mean it. Our tenants can count on us to solve their problems and make sound decisions.

Aspiration

We want the best for all our current and future tenants. We're not afraid to strive for things that won't be easy – or try things that haven't been done before. We seek out opportunities and welcome change. If it doesn't turn out as planned, we learn and improve again. And then we try again.

Our Business Objectives 2020-2025

1. Building & sustaining popular neighbourhoods
2. Creating & supporting greater life opportunities for all
3. Developing greener spaces & community wellbeing
4. Being a dynamic & listening community partner
5. Treating people equally and with respect

Contents

1. Introduction

1.1 Queens Cross Housing Association recognises that to meet its obligations as a Social Landlord and housing provider, to deliver its Business Plan commitments and provide excellent services to customers, it is required to maximise its rental income. An effective Rent Arrears policy and effective procedure is fundamental to this and to helping tenants to sustain their tenancy. At the same time the Association recognises the need for a sensitive and supportive approach to arrears recovery.

1.2 This document outlines the Association's Arrears Policy. In line with good practice, the underlying principles are to

(i) encourage a culture of maintaining a clear rent balance from the start of a tenancy
(ii) help tenants avoid having rent arrears accrue on their rent accounts
(iii) early intervention and regular contact when arrears occur
(iv) ensure that these are dealt with in a fair but effective manner when they do.

We have developed a guide for staff 'Income Maximisation Core Principles' which details our approach to rent to ensure consistent, fair and good practice. This document is attached as Appendix 1. This is also complemented with a suite of working procedures.

1.3 Rent is the Associations main source of income and it is essential that arrears of rent be kept to a minimum to ensure the Association's financial viability and to help sustain tenancies. The Association is committed to prevention of arrears through early action and this will have a positive impact in the prevention of homelessness. The object of an Arrears Policy is to minimise loss of rental income by prompt, effective recovery of rent arrears.

It is recognised that many tenants get into difficulties through an inability to pay and that there is only a small minority who wilfully refuse to pay. The Associations objective is to provide support, advice and guidance to assist those on low incomes or those who have trouble with household budgeting to maintain regular rent payments, while at the same time to adopt firm measures to deal with the minority who persistently refuse to pay.

This policy has been developed by considering the Associations existing good practice and experience together with the Scottish Federation of Housing Associations' Raising Standards in Housing guidance on Rent Arrears; Prevention Management and Recovery.

2. Relevant policy, Regulatory and legislative matters

The following QCHA policies are particularly relevant:

- Rent & Service Charge Setting policy
- Equality, Diversity & Inclusion policy
- Data protection policy

2.1 **<u>Scottish Social Housing Charter 2017</u>**

Charter 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 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 14 requires social landlords to:

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 service users can afford them.

Outcome 9 requires social landlords to:
Ensure people at risk of losing their homes get advice on preventing homelessness.

2.2 **The Housing (Scotland) Act 2001**

This establishes the regime of Scottish Secure Tenancies, the terms of such tenancies and the arrangements for repossession of a tenancy.

2.3 **The Housing (Scotland) Act 2010**

This set out the terms of Pre-action Requirements under sections 14 and 14A of the Housing (Scotland) Act ("the 2001 Act") as amended by section 155 of the 2010 Act and Repossession Orders under section 16 of the 2001 Act as amended by Section 153 of the 2010 Act.

2.4 **The Equality Act 2010**

The Public Sector equality duty requires public authorities to have due regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations. This duty covers RSLs in the exercise of public functions.
The Equality Act 2010 has introduced 9 protected characteristics:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- Sexual orientation.

2.5 **The Data Protection Act 1998**

Sets standards in relation to the gathering and sharing of personal information.

2.6 **The Human Rights Act 1998**

Has an effect on housing management functions, including Recovery of Possession Proceedings.

2.7 **<u>The Bankruptcy and Diligence (Scotland) Act 2007</u>**

Sets out the legal framework for recovery of debt, including rent arrears

2.8 **<u>Welfare Reform Act 2012</u>**

The Welfare Reform Act 2012 made changes to the rules concerning a number of benefits offered within the social security system and became law on 8 March 2012 although its provisions were to be phased in over a number of years. The Act includes

- The introduction of Universal Credit
- Penalties for fraud and error
- The "claimant commitment"
- Phasing out of Disability Living Allowance and replacement with Personal Independence Payment
- Reform of Housing Benefit, including introduction of under-occupancy charges
- Framework for the Social Fund
- Reform of Employment and Support Allowance
- Updated child support provisions

3 Aims and Objectives

This aims of this policy are to: -

- Maximise rental income
- Ensure tenants understand their rent liability and the other costs of managing a home before signing their tenancy agreement
- Encourage tenants to pay one month in advance from signing for tenancy or set up arrangement to work towards this
- Encourage tenants to then maintain a clear or positive balance on their account throughout their tenancy
- Prevention and early intervention when needed to build a close working relation between housing and tenant to ensure effective rent account management
- Prevent arrears rising by ensuring tenants are aware of any benefit entitlement utilising the Financial Inclusion Team to maximise their income.
- Implement recovery of arrears with voluntary co-operation of the tenant.
- Maintain an effective and efficient arrears control system
- Work in partnership with colleagues and other support agencies to deal with arrears cases in a sensitive, fair, but rigorous manner taking account of known vulnerabilities.
- Maintain appropriate information systems that enable both staff and the Board of Management to monitor the effectiveness of the arrears policy.
- Ensure that eviction action is only ever pursued as a last resort when best endeavours to manage the situation have proved unsuccessful.

4. Prevention of Rent Arrears

4.1 The Association will undertake preventative measures to minimise rent arrears, these will include but are not limited to:

- Pre tenancy budgeting information will be given to all prospective tenants as part of the application process.
- All new tenants will be encouraged to pay a full month's rent in advance when the sign for a tenancy.
- Where a tenant cannot pay a full month at the outset of their tenancy they will be encouraged to pay a smaller amount with a view to building up a rent credit / cushion
- All new tenants are visited within 4 weeks of occupying their home and the rent account will be discussed. This enables early identification of any problems and gives the tenant an opportunity to raise any issues they may wish clarified. Certain complex or benefit cases will also receive a call after 2 weeks of occupying for an update on their pending income
- Tenants will be advised and reminded to advise relevant agencies of changes in their circumstances and to return review forms to avoid benefit overpayments.
- Early personal contact will be made with a tenant as soon as an account shows non-payment, inadequate payment or arrears.
- An emphasis will be placed on personal contact with tenants as key to successful prevention, control and recovery, including some contact outside usual office hours to accommodate the needs of working tenants.
- Where it is reasonable, taking account of the tenant's circumstances, lump-sum repayment will be taken
- Where a lump sum repayment will create financial hardship, an affordable payment plan will be agreed.
- Arrears direct deductions from benefits (Legacy Benefit) or Alternative Payment Arrangements (Universal Credit) will be used to help tenants manage their payments where the conditions for such deductions are met
- Referrals to the Financial Inclusion Team will be made when arrears arise or at any point where a significant change of circumstances has occurred.

5. Rent Payment Methods

5.1 The Association offers a variety of payment options.

- **Direct Debit Mandate** – This is the preferred method and will be encouraged as it reduces problems when the rent changes. Weekly, fortnightly or monthly payments will be accepted.
- **Recurring Payment**: Continuous payment taken off debit/credit card – Alternative to Direct Debit with zero charges if payment fails.
- **Payment Card** – A payment card is provided to all tenants which allows them to pay at a variety of local convenient outlets.
- **Universal credit Housing costs** – Tenants on a low Income or in receipt of benefits may be entitled to Universal Credit. Support will be given to tenants

to complete the application process and contact will be maintained with DWP officers to deal with outstanding cases. Tenants on UC will be encouraged to make payments themselves to avoid arrears when circumstances change. Where appropriate an Alternative Payment Arrangement (i.e. the direct payment of Housing Costs) we be applied for.

- **Housing Benefit** – Tenants on a low Income or in receipt of benefits may be entitled to Housing Benefit. Support will be given to tenants to complete the application process and contact will be maintained with City Council HB officers to deal with outstanding cases. Tenants will be encouraged to authorise payments of HB direct to the Association.
- **On-Line Payments** – can be made via the Association's website or App.
- **Callpay** – payments can be accepted over the phone using Allpay card payment system.

6. Rent Arrears Recovery

6.1 Rent Accounts will be monitored weekly to identify arrears at an early stage and ensure prompt action to contact tenants where expected payments are missed (taking into account benefit payments cycles).

6.2 A clear procedure for managing rent arrears is in place.

6.3 Monthly rent is due on the 1st of each month and rental payments should be received on or before the 1st of the month and no later than the 7th day that month.

6.4 Action will start as soon as a rent payment is missed; however information will be gathered to get a clear picture of the tenant's circumstances and the reason for the arrears. The personal circumstances of the tenant may influence how arrears are managed and also the method of contact.

- In some cases, a standard reminder letter will be sufficient. However, when the tenant is vulnerable, receives support or has a previous record of missed payments, a home visit may be more appropriate and may require support worker attendance (internal or external organization).

- A variety of methods to will be used to contact tenants including home visits, telephone, email, text or other technology to make contact with tenants in arrears. All agreements will be followed up in writing.

7 Tenancy Transfer

7.1 Existing tenants of the Association must have a clear rent account before being allowed to transfer or have a repayment arrangement in place and have kept to this arrangement for at least 3 months.

7.2 In exceptional circumstances (such as domestic violence or management approved transfer) a transfer will be approved subject to a realistic signed payment agreement being put in place.

8 Benefit advice and Financial Inclusion Team

8.1 Access to benefit entitlements and managing household costs play a crucial role in minimising arrears. All tenants have access to the Association's Financial Inclusion Team and up to date advice on Welfare Benefits and Money/ Debt advice.

Advice will also be provided on household budgeting and household energy costs.

9 Rent account information

9.1 Tenants can access up to date information on their rent account using the QC App. or by request.

Correspondence relating to arrears will include information on how to pay, advice on where to seek help (including independent assistance) and contact details of their Housing Officer.

10 Legal Action for Recovery

10.1 In cases where the Association requires to raise court action for repossession the relevant law for Scottish Secure Tenancies, is the Housing (Scotland) Act 2001. The relevant ground for rent arrears is Schedule 2, Part 1, Ground 1:-

'Rent lawfully due from the tenant has not been paid or any other obligation of the tenancy has been broken'.

10.2 A **Notice of Proceedings** (NOP) will be issued to the tenant prior to court action and to all qualifying occupants, (all known members of the household over the age of 16). This requires to be authorised by the Income Maximisation Manager or Depute Director once all preventative methods have been met and will allow the Association to take legal action in the six-month period starting 1 month from the date the NOP is delivered.

10.3 **Pre-Action Requirement** - the Housing Scotland Act 2010 established a requirement for Registered Social Landlords to meet a number of conditions or Pre Action Requirements and to document how they have done so, before beginning legal action to end a tenancy. The Association's NOP outlines how we have fulfilled the requirements outlined below;

- Give clear information about the tenancy agreement and the unpaid rent or other financial obligations;
- Make reasonable efforts to give help and advice on eligibility for housing benefit and other types of financial assistance;

- Give information about sources of help and advice with the management of debt;
- Make reasonable efforts to agree with the tenant a reasonable plan for future payments;
- Consider the likely result of any application for housing benefit that has not yet been decided;
- Consider other steps the tenant is taking which are likely to result in payment within a reasonable time;
- Consider whether the tenant is complying with the terms of an agreed plan for future payments
- Encourage the tenant to contact their local authority (where the local authority is not the landlord).

Over and above this we will also advise the tenant to consider receiving legal representation in relation to the action being taken against them.

11 Preventing Homelessness

11.1 The Association will apply the duties expected of it within the provisions of Section 11 of the Homelessness etc (Scotland) Act 2003 which places a duty on landlords to inform the local authority when they raise proceedings for possession of a property. The aim is to alert the local authority to households at risk of homelessness.

11.2 Local authorities have statutory duties to people who are homeless or threatened with homelessness and early notice of a potential eviction supports homelessness prevention.

12 Court action

12.1 The Association's Solicitors will arrange a date for the case to be heard in Court and a Summons issued to the tenant accordingly. The Association will be represented at Court by its Solicitors who will confirm with the Housing Officer the sum outstanding along with all other relevant information as at the date of the hearing.

If the tenant appears as summoned and states proposals regarding the payment of arrears, the case will invariably be continued for an arrangement to be made and thereafter "sisted", but if the arrangement is not adhered to, the Association will instruct that the case be immediately recalled to Court.

Legal costs involved in Arrears action will be added to the tenants account if awarded by the court.

13 Eviction

13.1 Once a Decree for eviction has been granted by the Court, the Association will confirm this with the tenant inviting them for an interview with the Housing Manager to provide a final opportunity to avoid repossession. The following options will be considered to prevent the eviction from proceeding.

1. Tenant agrees to make full payment of the balance on the account.
2. Agreement to accept a payment covering half of the balance on the account with a repayment arrangement to clear the arrear over an acceptable period, generally no longer than 6 months.
3. A payment arrangement based on the outstanding balance that will clear the arrears over a realistic period of time, generally no longer than 6 months to clear the debt.

The tenant will be informed in writing that failure to keep to the arrangement made will result in the Eviction proceeding. (Decrees for eviction can be used within six months of them being awarded).

13.2 The decision to evict will be authorised under Delegated authority by the Association's Chief Executive. A report will detail the action taken.

13.3 The Association will then instruct Sheriff Officers to carry out the eviction. The tenant will be given 14 days written notice and advised to contact the Local Authority Homeless Service regarding alternative accommodation. If children are involved the Association will inform the Children and Family section of the Social Work Department informing them of the impending action.

13.4 When the Eviction takes place, the Sheriff Officers, Housing Officer and a Joiner will attend and the locks to the property changed. If the tenant has not cleared their belongings, these can be uplifted and suitably disposed of as legal guidelines indicate. A flexible approach may be taken and the decision made to store the belongings for 1 week at the property allowing access for their removal. Remaining items will then be disposed of. Should any items of value left be left, the Association, using its own discretion, may store these for a limited period or sell to recover some of the outstanding debt.

14 Former Tenant Arrears (FTAs)

14.1 The Association aims to recover arrears from Former Tenants. FTAs will be pursued with the same rigor as current arrears with action starting at the point a tenant advises of their intent to terminate their tenancy.

14.2 Should the FTAs not be recovered by the Association the debt will be passed to a Debt Collection agency. Each case will be regularly reviewed to the point where there is no prospect of recovery when the debt will be written off subject to approval by the Board.

14.3 Details of FTAs will be held on file in the event that the Former Tenant applies to the Association for re-housing they will be asked to pay their debt (even if written off).

15 Responsibility

15.1 The Depute Director of Housing & Support is responsible for implementing this policy. Income Maximisation Manager is delegated to take decision on when to serve a NOP or start court action once satisfied all other preventative methods have been carried out.

15.2 The Chief Executive Officer will approve evictions.

15.3 Reports will be presented to the Board of Management on a quarterly basis detailing performance information against key performance indicators (KPIs) and any evictions carried out for rent arrears.

15.4 The Board of management will approve KPIs and write offs.

16 Review

16.1 This Policy will be reviewed every three years or earlier if changes in legislation or regulatory requirements are introduced.

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