



Rent Arrears Policy (Draft)

Policy Consultation Draft Document

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1. Introduction

- 1.1 The document outlines the Associations Rent Arrears Policy. The Association's main source of income is rent, and it is therefore critical that losses in this area are kept to an absolute minimum. Ultimately, high rent arrears could prevent the Association from having sufficient funds to maintain and manage the housing stock in the long-term and adversely impact upon day to day services.
- 1.2 The Association is committed to the of arrears through early action and this will have a positive impact in the prevention of homelessness and income collection. The underlying principle of early action are to:
 - help tenants avoid accruing arrears on their rent accounts
 - ensure that tenants in arrears are supported and dealt with in a fair and effective manner
- 1.3 This policy advises of the support measures that the Association has in place for its tenants and its approach to rent arrears management.
- 1.4 This policy is supplemented by detailed working procedures which are used by staff in implementing the policy, ensuring that the escalation process is followed and from early intervention up until repossession for non-payment of rent, whilst also ensuring that tenants in rent arrears are supported and have their incomes maximised where possible.

2. Policy Aims

- 2.1 The overall aim of the Rent Arrears Policy is to minimise the level of rent arrears in a sensitive but effective manner.

The main objectives of the policy are:

- To monitor levels of rent arrears and have early intervention mechanisms in place which prevent rent arrears arising
- To offer early, appropriate support and guidance to tenants to reduce rent arrears
- To respond quickly to non-payment of rent and attempt to make personal contact as soon as possible
- To adopt an approach to arrears management which is firm but also focuses on preventing homelessness and takes account of tenants' individual circumstances
- Ensure that actions taken are compliant with legislation and good practice
- To take appropriate action in accordance with the level of the rent arrears
- Where appropriate, work with relevant external agencies, such as Housing Benefit Department, Department of Work & Pensions, Social Work Services, etc.

3. Legislation

3.1 This policy complies with the following legal requirements:

Scottish Secure Tenancy – the Association’s tenancy agreement contains specific conditions in relation to the payment of rent and other tenancy related charges. Non-payment of these charges represents a breach of the tenancy conditions involved.

Housing (Scotland) Act 2001 - the policy adheres to the provisions of the Housing (Scotland) Act 2001, including the guidance in relation to the recovery of possession of a tenancy when a tenant has breached the conditions of their tenancy agreement by accruing rent arrears.

Homelessness (Scotland) Act 2003 - The Association will comply with the terms of Section 11 of the Homelessness (Scotland) Act 2003 by giving the local authority in the area in which it operates early notice of households at risk of homelessness due to eviction. In compliance with the legislation, notice will be given when raising proceedings for possession or the service of certain other notices as specified in the Act.

Housing (Scotland) Act 2010 – The policy has been drafted to take account of the arrears and eviction related provisions to be introduced through Section 14 of the 2010 Act. These include the provision of clear information to tenants on their tenancy and arrears situation; direct provision of advice and assistance; provision of information about other sources of information and advice; agreeing reasonable repayment plans; and revised arrangements for when a Notice of Proceedings can be served.

Housing (Scotland) Act 2014 – Part 2, Section 6 allows social landlords to set a minimum period before any applicant (except applicants being assessed as homeless by the local authority) is eligible for the allocation of housing for various circumstances, including rent arrears, unless the applicant is taking meaningful steps to repay the debt.

Data Protection Act 2018 - Cadder Housing Association is fully committed to compliance with the requirements of the General Data Protection Regulations (GDPR), which came into force on 25th May 2018.

Equality Act 2010 - The Equality Act 2010 applies to everyone who provides a service to the public and is based on all persons having the right to be treated with dignity and respect. The Association will ensure that the Equality Act 2010 is adhered to during its management of rent accounts. We will ensure that all residents are treated fairly, with support needs being met when required.

The Debtor’s (Scotland) Act 1987, The Bankruptcy & Diligence (Scotland) Act 2007
The Bankruptcy and Debt Advice (Scotland) Act 2014 – Sets out the legal framework for recovery of debt, including rent arrears.

3.2 Regulation – Scottish Social Housing Charter

- 3.2.1 The Scottish Social Housing Charter came into effect in April 2012 (updated 2022) and this sets the standards and outcomes that all social landlords should aim to achieve when performing their housing activities. Cadder HA must meet

the outcomes and standards set out in the Charter, which is approved by the Scottish Parliament.

3.2.2 The Charter outcomes most relevant to rent management are:

Outcome 1: Equalities - every tenant and other customer has their individual needs and rights recognised, is treated fairly and with respect, and receives fair access to housing and housing services

Outcome 9: Housing Options - people at risk of losing their homes get advice and information on preventing homelessness

Outcome 11: Tenancy Sustainment - 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

Outcome 13: Value for Money - tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay

4. Equalities

4.1 An Equality Impact Assessment accompanies the Policy.

4.2 In applying the Rent Arrears Policy, Cadder HA will ensure it complies with the Equality Act 2010. The Act makes it unlawful to discriminate against, harass or victimise a person because they have one or more of the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation

4.3 Our approach to rent arrears will tackle inequality by:

- Taking account of the individual circumstances of the tenant and their household
- Identifying and supporting tenants who may be vulnerable
- Showing fairness and respect in all of our dealings with tenants.
- Providing in-house advice services, to help maximise tenants' incomes and deal with debt issues.
- Making language and communication assistance available to customers who need this. This may include customers with sight, hearing, cognitive or learning difficulties, or those who find it difficult to speak or understand English.

5. Consultation

5.1 Consultation with the community and resident participation has always been one of the key aspects of the way in which the Association operates. We therefore welcome the statutory provisions in the Housing (Scotland) Act 2001 which require all social landlords to take tenants' views into account when formulating key service delivery policies.

- 5.2 There are two strands to policy consultation within Cadder HA:
- Firstly, we believe it is important to inform all tenants when a policy review is due. Where required, we will provide information on what changes are likely to be proposed by the Association
 - Where required, the next stage will be to invite feedback from tenants and service users (where applicable) on any changes to the policy, in relation to:
 - how well they feel the proposals address the needs of the community
 - whether there are any particular amendments they would like to see.
- 5.3 The Association has a Resident Participation Strategy which outlines our commitment to encourage participation and consultation in the review of our policies and service areas, where required. It clearly states that the Association will only consult on any changes to the policy where these changes significantly affect tenants and service users.
- 5.4 Where appropriate, the Association consult with any other relevant organisations.

6. Prevention of Rent Arrears

6.1 New Tenants

- 6.1.1 The first objective of this policy is to minimise rent arrears through prevention. Prevention should be viewed as the key to the success of the policy. Prevention starts at the beginning of a tenancy, and it is important that all applicants who receive an offer of housing are provided with details on rent due; ways / when to pay rent; Financial Inclusion Team details / benefits assessment / assistance and tenancy support services. Information booklets will be provided. Where possible, we will encourage the use of the Direct Debit facility.
- 6.1.2 Staff will also establish any alternative communication needs, such as other preferred language; large print; sign language or appointed advocate, etc.
- 6.1.3 The Welfare Rights Service will be involved at sign-up stage with new tenants and carry out checks for any other benefits that the new tenant may be entitled to and where required, sign-post tenants to money / debt advice services. Staff will complete benefit applications on behalf of tenants and advise the new tenant of the estimated rent charge that will be due.
- 6.1.4 Housing Management staff will promote and engage assistance from the Maintenance Dept to help new and existing tenants manage issues and sustain the tenancy.
- 6.1.5 Tenants will be advised and encouraged to contact the Association as soon as they become aware of any problems whatsoever in making the rent payments.

- 6.1.6 The Housing Officer will carry out a new tenancy home visit within six weeks of the tenancy commencing. This will be used as an additional measure to discuss any rent problems and the action required to resolve matters.
- 6.1.7 We will visit all new tenants within six weeks of their date of entry and take that opportunity to go over rent matters and available support.
- 6.1.6 Each new tenant will be given a six-monthly review by the Housing Officer to establish if there are any issues with the tenancy or further support required.

6.2 Early Action / Support

- 6.2.1 As better outcomes are normally achieved, we will place a greater emphasis on personal contact with tenants, i.e. telephone, house visits.
- 6.2.2 Where it becomes clear that any arrear is not going to be cleared immediately, we will make an arrangement for repayment. This will be set a fair amount and confirmed in writing. The tenant will be made aware of the Welfare Rights Service, Tenancy Support Service (if applicable) and the lead staff member's contact details.
- 6.2.3 To minimise the risk of arrears increasing in certain accounts, staff will make pro-active contact with identified tenants in advance of agreed payments. This approach will be used to remind certain tenants of their due payments and will only be taken with tenants with a poor payment history.
- 6.2.4 The Welfare Rights Service will be promoted to tenants and benefits checks will be arranged / offered. We will also make tenants aware of the debt / money advice service provided by Citizens Advice Bureau and the energy advice service, provided by Glasgow Home Energy Advice Team (GHEAT), along with any other support services that may be applicable.
- 6.2.5 We will make fair repayment arrangements with tenants in arrears. We will consider each case on its own merit, whilst ensuring that the tenant can afford the terms agreed.
- 6.2.6 All tenants will be assessed on an individual basis for support needs such as translation services and these will be provided where necessary.

7. Rent Collection / Payment Options

- 7.1 The Association has a variety of payment methods to allow tenants to have accessible and convenient payment options to pay their rent. These are:
- Swipe cards that can be used at the Post Office and Pay Point outlets
 - Direct Debit facility through their Bank / Building Society
 - Housing Benefit direct
 - Arrears Direct (deductions taken at source from state benefit payment)
 - Via internet
 - By telephone
 - Cheque
 - Allpay app
 - Payments at the Association Offices (by debit card)
 - Managed Universal Credit (housing element) payments

- 7.2 These options will be publicised through our website and 'How to Pay' information, which will be included in tenant communications.

8. Housing Benefit

- 8.1 Many of the Association's tenants continue to receive assistance with their rent through Housing Benefit. There is a planned migration taking place over the next few years which will see these numbers decrease and eventually all tenants receiving Housing Benefit will move to Universal Credit (see Section 9).
- 8.2 Benefit claims are the responsibility of the customer, and they are expected to liaise with Glasgow City Council and the Department of Work & Pensions to ensure that their rent is paid to the Association.
- 8.3 We will monitor and respond to changes to a tenant's Housing Benefit award, by contacting tenants when we are notified of the change, to advise them of their new rent payments.
- 8.4 Where tenants have overpayments that are being deducted from their Housing Benefit, or where it has been stopped or suspended, we will encourage the use of our Welfare Rights Service who can give assistance in these matters.

9. Universal Credit

- 9.1 Universal Credit (UC) combines Housing Benefit; Job Seekers Allowance (income based); Employment & Support Allowance (income based); Income Support; Working Tax Credit and Child Tax Credit into a single award. UC payments can be made fortnightly or monthly in Scotland and tenants have the choice of having the housing element of their payment paid directly to their landlord.
- 9.2 The Association will assist tenants in making claims for UC. When it is known that a tenant is migrating onto UC and s/he meets any of the criteria for an Alternative Payment Arrangement (the direct payment of housing costs from UC to the landlord), we will apply to the DWP for such a payment to be made.
- 9.3 The Association will also submit Third Party Deduction applications to the DWP where tenants are in receipt of UC and who have accrued rent arrears of eight weeks or more.

10. Repayment Arrangements

- 10.1 Outcome 11 of the Scottish Social Housing Charter directs social landlords to ensure that suitable support is available to tenants in rent arrears so as to sustain tenancies.
- 10.2 The amount to be paid toward the arrear should be based on the ability of the tenant to afford the payments.
- 10.3 We will make tenants aware of the Welfare Rights Service and offer a benefits health check as this may improve household income and the tenant's ability to pay the rent charge.

11. Payment Culture

11.1 The Association promotes a payment culture and continually reminds and supports tenants to make timeous rent payments. This is achieved through:

- Newsletter articles
- Benefit and payment articles placed on our website
- Pro-active payment contacts
- Circulation of the 'How to pay your rent leaflet'
- Issuing tailored seasonal letters (lead up to festive period)
- Promotion of Direct Debits
- Payment frequency options (weekly; fortnightly; monthly)

12. Legal Action

12.1 Legal Action for Rent Arrears

12.1.1 The Housing (Scotland) Act 2001 allows the Association to take legal action against tenants in arrears under certain circumstances (these are described in more detail below). The Association may take legal action where:

- A tenant fails to co-operate in reducing the arrears
- The repayment arrangement is repeatedly broken

Legal action is a serious matter that could result in a tenant losing their home and, as such, it will not be entered into lightly. The converse of this is that, when legal action is started, it will be on the basis that the Association is prepared to carry it out and ultimately evict the tenant. Tenants will therefore be made aware that the sanction of legal action is not viewed as an empty threat.

12.1.2 The Association may take one of the following courses of action:

- Seek to recover the arrear only (with the tenant remaining in the property)
- Seek to recover both the property and the arrear – this is known as a co-joined action.

12.1.3 In the event that the Sheriff rules in favour of the Association, an award of legal expenses against the tenant will also be sought by the Association's attending solicitor.

12.1.4 Appendix 1 of this policy details the steps taken by staff in the arrears escalation process. At all times good lines of communication will be kept with tenants to ensure they are fully aware of the situation, and will continue to explore means of avoiding eviction wherever possible.

12.2 Taking Legal Action

12.2.1 Where the Association decides to take legal action against a tenant for non-payment of rent, a Notice of Proceedings for Recovery of Possession must be duly served in the first instance. The Notice will state the grounds for recovery and the date after which the Association can raise recovery proceedings.

Notices will be served on the tenant(s) and qualifying occupiers, aged 16 years or over.

12.3 Pre-Action Requirements

12.3.1 As introduced by the Housing (Scotland) Act 2010, the Association will be compliant with pre-action requirements that landlords must meet before serving a Notice on a tenant. We will ensure that the following criteria have been fulfilled upon a Notice being issued:

1. That the Association has given clear information about the tenancy agreement and the unpaid rent or other financial obligations
2. That the Association has made reasonable efforts to give help and advice on eligibility for housing benefit and other types of financial assistance
3. That the Association has given information about sources of help and advice with the management of debt
4. That the Association has made reasonable efforts to agree with the tenant a reasonable plan for future payments
5. That the Association has considered the likely result of any application for housing benefit that has not yet been decided
6. The Association has considered other steps the tenant is taking which are likely to result in payment within a reasonable time;
7. The Association will have considered whether the tenant is complying with the terms of an agreed plan for future payments
8. It can be shown that the Association has encouraged the tenant to contact their local authority (where the local authority is not the landlord).

When preparing Notices, staff must be mindful of the above criteria and evidence within the body of issued Notices how these have been considered / met.

12.4 Homelessness etc (Scotland) Act 2003 – Section 11

12.4.1 Section 11 of the Homelessness etc (Scotland) Act 2003 requires that landlords notify their local authority when court action is raised against a tenant.

12.4.1 The Association's solicitors will issue Glasgow City Council (GCC) with a Section 11 Notice when court actions are raised on behalf of the Association. A copy of the Notice will be e-mailed to the Association. This will provide GCC's Social Work Services Department the opportunity to contact the Association to discuss any cases.

12.5 The Right of Non-Tenants Living in the Property to be heard in Court

12.5.1 All persons aged 16 years of age and over living in the property are categorised as 'Qualifying Occupiers' within the provisions of the Housing (Scotland) Act 2001 and therefore, have the right to be heard in Court. Qualifying Occupiers can include:

- A member of the tenant's family
- A person to whom the tenant has assigned or sub-let part or all of the

tenancy

- A person whom the tenant has taken in as a lodger, with the consent of the Association

12.5.2 There is a contractual duty upon tenants to keep their landlord (Cadder Housing Association) informed of all those living in the property. The Association will:

- Check household composition when carrying out arrears interviews
- Emphasise the requirement to keep the Association informed of who is living in the property at the sign-up, including successions and assignments
- Letter all tenants to confirm occupants of the house prior to issuing Notices

12.6 When Should Legal Action be taken

12.6.1 The Association will consider serving legal notices on tenants who are in rent arrears to facilitate legal action. The decision will be based on reasonability and the following factors will be taken into account: -

- Level of arrears
- Continued non-payment of rent
- Number of breached repayment arrangements
- Responses to communication or contact from the Association to set repayment arrangement
- Maintenance of repayment arrangement.

The Association will be mindful of the criteria set with the Pre-Action requirements as contained within the Housing (Scotland) Act 2010.

12.7 Authorising Legal Action and Eviction

12.7.1 The Housing Officer will have the discretion to decide whether a Notice should be served within the terms of the policy.

12.7.2 The Housing Officer will identify any cases being considered for court action to the Head of Housing. Before any court action taken, the Head of Housing will write to the tenant to provide them with the opportunity to meet and discuss their situation and repayment terms.

12.7.3 When Decree for eviction has been obtained against a tenant, the Head of Housing will provide a report to Board for its consideration. The Board will decide whether to evict the tenant or otherwise. The report will contain household composition details, an overview of the case history, other relevant information and a recommendation. At no point, will the identity of the tenant be revealed to Board.

12.7.4 Where the Board decides to evict the tenant, the Association will advise the tenant of their decision. In addition we will, subject to Data Protection considerations, contact Social Work Services and Glasgow's Homelessness Service.

- 12.7.5 The Head of Housing will keep the Board updated in matters after their decision has been reached. The Board will be advised if decrees have been enforced or otherwise.

13. Other Arrear Types

13.1 Technical Arrears

- 13.1.1 The Association will categorise technical arrears as:

The amount that is due as Housing Benefit is paid 4 weekly against the monthly rent debit

Confirmed monies that are due from Housing Benefit / Universal Credit, but to date have not been paid

- 13.1.2 If an arrear that is thought to be technical is not ultimately covered by Housing Benefit / Universal Credit, then it will become a non-technical arrear and will be pursued in the normal manner.

13.2 Former Tenant Arrears

- 13.2.1 Former Tenant Arrears - the Association will adopt the principle of early action in pursuing payment of arrears of rent from former tenants. The Customer Services Coordinator / Officer will seek a repayment arrangement and forwarding address details with a tenant who is in arrears of rent and wishes to terminate their tenancy. The Association will monitor compliance with any repayment arrangement from a former tenant. In the event that a former tenant fails to maintain their repayment arrangement on more than one occasion their case will be forwarded to the Association's Solicitors for management by their Debt Collection Department.
- 13.2.2 If at any time the tenant's address is not known and/or correspondence is returned 'gone away', the case will be forwarded to the Association's solicitors to trace the former tenant's new address.
- 13.2.3 There can be considerable practical problems in pursuing former tenant rent arrears and this has tended to lead to low collection rates across the housing association movement. It may therefore not be economical for the Association to pursue amounts where:
- The balance outstanding is low
 - Despite attempts to find out the forwarding address, this is still not known
 - It is estimated that the incurred legal costs will be high and therefore not proportionate to the amount owed
 - The former tenant is deceased and there is no estate

13.3 Sequestration

- 13.3.1 The Association will declare a tenant debt as part of the sequestration / trust deed process to the Accountant in Bankruptcy / Insolvency Firm. However, it is rare for these debts to be repaid once declared and approved as part of a sequestration. As a result, the Association will consider writing off sequestrated balances through Board approval when the Accountant in Bankruptcy has confirmed details.

13.3.2 Bad debt write-off reports are normally submitted to Board for consideration in March of each year.

13.3.3 Sequestered tenants must maintain their ongoing rent payments after a sequestration is in place. If they do not, then legal action will be considered as normal against any new debt.

13.4 Board Member Arrears

13.4.1 The Board is responsible for determining the Association's Rent Arrears Policy and considers individual arrears cases.

13.4.1 It is therefore important that there should be no conflict of interest for Board members in arrears making decisions on arrears policy or deciding on action against tenants in arrears.

13.4.2 Board members in rent arrears must declare an interest at any meeting where the topic being discussed involves rent arrears.

13.4.3 Also, the Rules of the Association state that a Board member is ineligible to serve on the Board if he/she is involved in any legal proceedings in any Court of Law by or against the Association.

14. Liaison with Other Agencies

14.1 The Association will work closely with other agencies to pursue the objectives of this policy. These agencies will normally include:

- Housing Benefit Department
- Health & Social Care Partnership
- Homelessness Service
- Department of Work & Pensions
- Support Agencies

15. Complaints

15.1 Where tenants are unhappy with any service provided by the Association, such matters will be dealt with in accordance with the Association's Complaints Policy.

16. Performance Monitoring

16.1 In order to measure the success of this policy and procedure, Board will monitor performance on a quarterly basis. Individual cases will not be considered (apart from when there is an eviction Decree), rather performance against targets and trends in evidence will be examined.

16.2 The Board will agree an annual target for non-technical arrears as part of the internal management planning process. The annual target for non-technical arrears will be confirmed to the Housing Management Team. The Senior Housing Officer will monitor arrears performance each month, ensuring cases are being managed effectively by involved staff.

- 16.3 An annual statement on arrears will be made in the Annual Report and Annual Report on the Charter.

17. Review

- 17.1 This policy will be reviewed in line with the Association's Risk Management Strategy
- 17.2 This Policy will be reviewed in March 2028, or earlier to take account of: -
- Legislative, regulatory and good practice requirements.
 - Association performance.
 - The views of tenants and staff.

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Appendix 1: Main Stages in Current Tenant Arrears Recovery Process

At all times, resolving rent arrears and supporting tenants in difficulty is foremost in the management of rent arrears, with contact with tenants at each stage of vital importance.

As a responsible landlord, Cadder Housing Association will take all reasonable steps to prevent court action being taken.

The following details the current rent arrears escalation process:

Action	Process
1. First Reminder Letter	Sent when rent payment is missed or is short. Staff may also visit, telephone, email, text as appropriate to contact tenant
2. Second Reminder Letter	Sent when no response or payment received after First Reminder Letter. Staff will continue to visit, telephone, email, text as appropriate to contact tenant.
3. Final Warning Letter prior to NOP	Sent where there is no response or adequate payments made after First and Second Reminder Letter, and staff have ensured compliance with pre-action requirements. Staff will have continued intensive action to contact tenant and have investigated reasons for non-payment, including entitlement to benefits etc. Attempts to take repayment arrangements will have been made.
4. Notice of Proceedings	To be prepared by Housing Officer and authorised by Senior Housing Officer. Qualifying Occupiers (people living in property over 16 years of age) to be checked and served with NOP. NOP will only be served once all pre-action requirements have been met. Section 11 Notice to be sent to GCC. Other appropriate agencies notified and assistance requested.
5. Post-NOP Final Warning Letter	Served after NOP goes live and adequate payments have not been received and or payment plans not made or kept.
6. Head of Housing Interview Letter	Letter inviting tenant to an interview with the Head of Housing to discuss case and try to prevent court action

Action	Process
7. Court Report	Submitted by Housing Officer to Head of Housing for authorisation to start court proceedings
8. Instruction to Solicitor	Solicitor initiates court proceedings
9. Solicitor Initiates Action	Summons issued. Tenant kept aware by letter of court action.
10. Court Hearing	Court Hearing conducted and eviction decree awarded
11. Eviction Decree	Decree received from court
12. Board Approval for Eviction	Head of Housing prepares Board report for eviction to be authorised.
12. Eviction	Eviction conducted.