



## Rental Income Policy

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## 1.0 **Policy Statement**

1.1 This policy sets out the legal framework and key principles used in maximising rental income and preventing and managing current and former tenancy arrears and tenancy credits.

## 1.2 **Strategic Objectives**

This policy supports the delivery of the following strategic objectives and outcomes:

Strategic Objective	Outcomes
Our Finances will support the changing needs of the business	Our Finances are Robust Our customers' needs are at the heart of our financial decisions
Our customers are at the heart of everything we do	Our customers feel listened to Our customers can influence us in a variety of ways

1.2 For the purposes of this policy "debt" relates to current and former tenancy arrears and legal expenses. This policy relates to arrears relating to Scottish Secure Tenancies, Loanstock, Garages and Leased Properties. We also have a Factoring Debt Recovery Policy for the Shared Ownership and Factoring properties.

## 2.0 **Aims and Principles**

### 2.1 **Aims**

The aims of this policy are to:

- Minimise tenancy related debt
- Maximise timely payment of tenancy related debt
- Provide a proactive and reasonable approach to debt payment through a person centred approach which sustains tenancies

### 2.2 **Principles**

Our underpinning principles are to:

- Treat everyone as an individual
- Treat people with dignity and respect at all times
- Make personal contact at an early stage in the arrears process
- Be firm, fair and consistent but be sensitive to the individuals' needs and circumstances
- Maintain confidentiality at all times

## 3.0 **Legislation/Regulation**

### 3.1 **Legislation**

The relevant legislation relating to tenancy related debts are:

- The Housing (Scotland) Act 2001
- The Housing (Scotland) Act 2010
- The Housing (Scotland) Act 2014
- The Housing (Scotland) Act 2018
- The Scottish Secure Tenancies (Proceedings for Possession) Pre-Action Requirements Order 2012
- The Equality Act 2010
- Homelessness (Scotland) Act 2003
- Debt Arrangement and Attachment (Scotland) Act 2002
- The Bankruptcy and Diligence (Scotland) Act 2007
- The Welfare Reform Act 2013
- The Scottish Social Housing Charter
- General Data Protection Regulation

### 3.2 Social Housing Charter

The Scottish Government, through the Scottish Housing Regulator, sets the outcomes it expects social landlords to achieve for its residents.

In terms of managing rental income, the relevant Social Housing Charter standards include:

#### **Outcome 1: Equalities**

*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*

#### **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*

### 3.3 Annual Return on the Charter (ARC)

VHAs is required to submit an Annual Return on the Scottish Social Housing Charter each year in accordance with published guidance. The following ARC indicators are of particular relevance:

**Indicator 30:** rent collected as a percentage of total rent

**Indicator 31:** Gross rent arrears (all tenants) as at 31 March each year as a percentage of rent due for the reporting year

### 3.4 Good Practice

In formulating this policy we have taken account of the current best practice and guidance from Scottish Housing Regulator, Scottish Federation of Housing Associations and Chartered Institute of Housing.

### 4.0 Scope

4.1 This policy relates to arrears relating to Scottish Secure Tenancies, Garages and Leased Properties. For the purposes of this policy “debt” relates to current and former tenancy arrears and legal expenses.

### 5.0 Prevention of Arrears

5.1 It is recognised that arrears prevention is integral to having a successful arrears strategy. Prevention of rent arrears is beneficial to tenants as debt can have a significant negative impact on a tenant’s wellbeing and their ability to sustain their tenancy. Tenants can pay by Direct Debit, Standing Order, Allpay, BACS, cash or cheque at our head office. To ensure a successful early intervention approach, consent will be obtained from the tenant, if a discussion is required with a third party agency.

#### **Pre-allocation to Allocation stage**

5.2 Measures for prevention can and should start prior to the allocation of a property. We also ascertain whether a prospective tenant is entitled to assistance with housing costs and provide details on the amount of rent and service charges that an individual can expect to pay. Council Tax banding and Energy Performance Certificate is also provided. This information can help an applicant determine if the property is affordable for them.

5.3 When the property is viewed, a more detailed discussion regarding the applicant’s income and the costs associated with the property is held. This discussion assists in determining any potential issues that may arise in relation to the financial aspect of having a tenancy, moving to a new house and running a home. The Officer will determine if the applicant will be applying for benefit, if they require assistance with completing the form, if they require assistance with moving costs and if a benefit check is required.

#### **Tenancy Sign up**

5.4 At the sign up, the importance of making regular payments and keeping a clear rent account will be discussed, with further information provided in the form of:

- The Tenancy Agreement
- The Tenants Handbook
- Leaflets e.g. relating to rent payment and benefits/welfare advice

5.5 At the sign up the method of payment and frequency of payment will be

agreed. The Association offer a variety of methods, with our recommended method being Direct Debit. It is discussed that rent should be paid in advance (i.e. at the start of the month) however should a tenant require to pay on a different date an alternative payment method can be agreed.

- 5.6 Where the tenant is applying for benefits to pay for housing costs, help will be offered to complete the applications. Tenants are encouraged to sign an authorisation mandate, which allows staff to liaise with benefit staff to ensure the smooth processing of the claim. Tenants may be entitled to housing benefit or universal credit and a discretionary housing payment.
- 5.7 It is made clear that regardless of the method of payment, it remains the tenant's responsibility to ensure that their rent and service charges are paid.

### **Post Allocation**

- 5.8 Post Allocation visits are carried out 6-8 weeks after the start of all new tenancies and any issues regarding rent will be discussed at this stage. Regardless of any arrears new tenants will be reminded of our Welfare Rights Service.

## **6.0 Arrears Recovery**

- 6.1 Detailed procedures exist which complement this policy. They give guidance to staff and incorporate guidance on the use of the IT system in relation to Arrears Recovery.
- 6.2 There are essentially 3 stages of Arrears Recovery, with a fourth and final stage being where all interventions have failed, and a Decree for Eviction is granted.
- Stage 1: Early stage low arrears to Pre-Notice of Proceedings
  - Stage 2: Notice of Proceedings to Court Action
  - Stage 3: Court Action
  - Stage 4: Eviction

Throughout these stages the Association provides multiple opportunities and support to tenants to resolve their arrears in a sensible and realistic way. VHA provides information and advice and makes appropriate referrals for specialist help or signposts to specialist agencies, where the tenant can self-refer.

### **Stage1: Early stage low arrears to Pre-Notice of Proceedings**

- 6.3 During the first stage of the recovery process we will contact the tenant at the earliest opportunity after the account falls into arrear to discuss the reasons for the arrears and determine if the arrears can be cleared in full. Where they cannot we will, with the agreement of the tenant where appropriate, assess the income and outgoings of the tenant to make a manageable repayment agreement. This discussion and financial review can highlight where there are multiple debts, fuel

poverty, unclaimed benefits, health problems and unmet support needs that may be worsening in the tenant's financial situation.

- 6.4 Home visits and office appointments will be offered to the tenant to discuss their arrears in confidence.
- 6.5 Referrals to the Welfare Rights Officer and external money and debt advice agencies will be made where a tenant requires additional specialist advice.
- 6.6 Clear audit trails within QLx system are essential in relation to both good practice and in demonstrating that the Pre-Action Requirements have been met.

### **Stage 2: Notice of Proceedings to Court Action**

- 6.7 We will issue a Notice of Proceedings for Recovery of Possession (NOP), only when all other interventions have failed.
- 6.8 A NOP will be issued to the Tenant, Joint Tenant (s) and any Qualifying Occupier known to be living at that address.
- 6.9 Once the NOP has been served we will make continue to make contact with the tenant, with a view to making an agreement for repayment. However, if the tenant fails to make contact by the effective date, or the agreement that was made is broken, then the case will be referred to court to seek a Decree for Eviction.
- 6.10 The Housing Team Leader will approve the progression to court. This approval acts as a final check to ensure that the officer has carried out all the necessary work and met all of the pre-action requirements.

### **Stage 3: Court Action**

- 6.11 When a case is called at court there are several options available as to what action to take. The case can be:
  - Continued: this is where a repayment agreement has been made and the Association wish to monitor the agreement for a set period of time (for example 8 weeks). After this time the case will be reheard at court and depending on whether the agreement has been maintained the case may be sisted, or if the agreement has been broken either a further continuation or decree for ejection can be requested.
  - Sisted: this is where the case remains in the legal system but is essentially pended. This allows the association to monitor payment over a longer period of time. The legal case remains active as long as the rent arrears remain. If the account is cleared the case should be dismissed. Sisted cases will be regularly reviewed and recalled within a maximum of 12 months.
  - Decree for Eviction: Once a decree has been granted it should be enforced to end the tenancy. The only way for an eviction to be cancelled is for the balance to be cleared in full on or before the date of the eviction. If the tenant did not represent themselves in court and

seek legal representation after the outcome, a Minute of Recall may be used to recall the case to court, and on this occasion the tenant would have legal representation.

- 6.12 Legal action will be taken as a conjoined action, which means that the Association will seek to recover the property and the debt. Legal expenses awarded by the Court will be recovered from the tenant.

#### **Stage 4: Eviction**

- 6.13 Evictions will only be authorised with the approval of the Head of Housing.
- 6.14 Prior to any eviction taking place, we will ensure the Local Authority Homelessness Section and where appropriate, Social Work Department (for example if there are children in the household or the tenant is vulnerable), are notified.
- 6.15 Storage of any tenant belongings which are left in a property following an eviction may be authorised by the Housing Team Leader where appropriate, and where authorised, such items shall only be stored for a maximum of 28 days after the eviction. Storage costs will be recharged to the former tenant.

### **7.0 Former Tenant Arrears**

- 7.1 Detailed procedures have been developed to assist the officers in dealing with former tenant arrears and write-off requests.
- 7.2 Former tenant arrears will be pursued as efficiently and cost effectively as possible.
- 7.3 All outgoing tenants will be advised of their rent account balance in writing and encouraged to make a repayment agreement or review the agreement that may be in place. A further discussion will be held at the pre-termination inspection.
- 7.4 Where possible a forwarding address for outgoing tenants will be collected. Consideration will be given to using a tracing agent on a case by case basis, where the current whereabouts are not known.
- 7.5 When a tenant passes away, details of the executor will be collected. This may be a solicitor, a family member or person nominated by the tenant. The matter will be dealt with professionally and sensitively.

### **8.0 Sequestrations, Trust deeds and exceptional circumstances**

- 8.1 Where proof is received that a tenant has been sequestrated, any arrears of rent and service charges outstanding up to the date of sequestration will be included in a Board report with a recommendation for write-off.
- 8.2 No legal action will be commenced in respect of pursuing any debt



accrued prior to the date of sequestration but Viewpoint will follow normal arrears procedures for any debt accruing thereafter.

- 8.3 Where a tenant is sequestrated during the course of a repossession action, the Housing Team Leader will use their discretion as to whether or not to continue to pursue the order for repossession, taking into account the circumstances of the case, or whether to dismiss the action.

## **9.0 Write Offs**

- 9.1 We recognise that there are a number of situations when a debt may be written off. In the majority of cases this will relate to former tenancy arrears, but in exceptional circumstances it may also relate to current tenancy arrears.

- 9.2 Debts will be considered for write off where:

- The amount of the individual debt is so low that it is not cost effective to seek repayment.
- There has been an unsuccessful trace and the current whereabouts are not known
- The former tenant has died and there is no estate
- It has not been possible to confirm if there was an estate
- The debt is 3 years or older
- The tenant has been sequestrated

- 9.3 In exceptional circumstances consideration will be given to writing off current tenant debts. These will be dealt with on a case by case basis in agreement with the Director of People & Place. Board approval may be required.

- 9.4 A report on write-offs will be put to the Board on a quarterly basis.

## **10.0 Current and Former Tenant Credits**

- 10.1 The Association should not hold large amounts of credits on rent accounts and tenants are discouraged from creating large credits on their rent account.

- 10.2 The Association will refund credits ensuring that the balance refunded would not put the rent account into debt, for example the balance refunded could be that showing on the last date of the previous month after all transactions had been processed. The Officer will confirm that there are no other debts outstanding to the Association or that no Overpayments of Benefit expected prior to any refund being issued.

- 10.3 All credits will be authorised by the Housing Team Leader prior to passing to the finance team for processing.

## **11.0 Confidentiality**

11.1 All information received in relation to rent arrears is confidential to Viewpoint. This means that information will only be shared with other individuals or agencies with the prior written consent of the person providing the information. The exceptions which apply to this are:-

- Where legislation states information is to be given, for example, the Department of Work and Pensions (DWP) Fraud Investigations etc.
- Where a decree for repossession is being sought. This information will be shared with Local Authority Homeless & Social Work departments as well as the Associations Solicitor.
- In some circumstances staff may believe it necessary to break confidentiality in relation to a tenant's rent account in order to protect a tenant. For example, where it is thought that the tenant is at risk or vulnerable. In these situations staff will not require the tenant's approval to discuss their case with appropriate external agencies providing these agencies for example Social Work.

## **12.0 Compliance and Support**

It is the responsibility of all staff to familiarise themselves with the content of this policy and to ensure that they comply with the policy and associated procedures.

If advice or support is required, this is available through the Housing Team Leader in the first instance, or Head of Housing.

## **13.0 Monitoring and Evaluation**

13.1 The implementation of this policy and associated procedures will enable us to strive to achieve the Housing Charter Outcomes and the SHR's Charter Indicators relating to arrears management. Our monthly Key Performance Indicators (KPI's) on arrears form part of our performance assessment process and these are reported to Board on a quarterly basis.

13.2 Viewpoint will undertake effective monitoring of our arrears performance via the procedures supporting this policy to:

- provide day-to-day control over the arrears function and ensure that procedures are followed by staff and cases being dealt with appropriately through regular audits
- monitor our overall performance in relation to arrears over each financial year
- provide good quality information about its arrears performance against its stated objectives for our Board and to inform service review
- benchmark against other social landlords to review and improve performance
- Performance information will inform continuous improvement

which will be detailed within the People & Place departmental plan

- 13.3 Viewpoint will set annual targets for income loss as a percentage of the annual rent; these targets will be agreed as part of the annual budget planning process.
- 13.4 Benchmarking, or comparing performance across organisations is good practice and is a useful tool in improving performance. Viewpoint will use relevant information available from a range of sources.
- 13.5 Viewpoint will maximise use of its IT system to ensure good monitoring of arrears, as well as aid good communication between departments and to provide analyses of arrears for reporting purposes. Systems will also enable Annual Charter Report validation and Inspection visits by SHR.
- 13.6 Tenants views will be sought through:
- Monitoring comments and complaints from tenants and using this to improve service delivery
  - Tenant consultation - through our Tenant Participation Strategy