

Paragon Housing Association Limited

POLICY:	Rent Arrears Prevention & Recovery Policy
POLICY AREA:	HOUSING MANAGEMENT
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1. Introduction

Paragon is a Registered Social Landlord with approximately 1400 properties. The Rent Arrears Prevention and Recovery Policy is a key document produced in line with good practice. The purpose of this policy is to provide a guide to good practice in arrears control.

An arrears policy is necessary:

- a. To safeguard the financial viability of the Association e.g. arrears can impact on the long term improvement and maintenance plans of the Association.
- b. To review the rent arrears situation over a specified period.

The Underlying principals of the policy are to:

- Help tenants avoid accruing arrears on their rent accounts, and
- Ensure that tenants in arrears are supported and dealt with in a fair and effective manner.

2. Policy Statement & Strategic Objectives

We are committed to doing all that we can to help our tenants pay their rent and to help them when things go wrong. The rents they pay are the main income the Association receives. Making sure rent is paid on time and in full is vital in order to enable us to continue delivering services and providing high quality affordable homes. When a tenant does not pay rent it impacts on all tenants. We ask our tenants to tell us as soon as possible if there is a problem so that together we can agree an arrangement to keep their account clear.

We are committed to using all the powers that we have to support and encourage tenants to pay their rents. If rent is consistently not paid, we will take legal action and this could mean a tenant will lose their home.

The aim of the Association's Arrears Prevention and Recovery Policy is to minimise the occurrence of arrears whilst maximising rental income by prompt, effective recovery and control of rent arrears by both current and former tenants.

The main objectives of the policy are:

- To monitor levels of rent arrears and have early intervention mechanisms in place who 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 direct 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 rent arrears

- Where appropriate, work with relevant external agencies, such as Housing Benefit Department, Department of Works and Pensions, Social Work Services etc.

3. Background on Legislative and Regulatory Framework

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 where 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 areas in which it operates early notice of households at risk of homelessness due to eviction. In compliance with legislation, notice will be given when raising proceedings for possession or the service of certain other notices as specified by 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: Paragon Housing Association is fully committed to compliance with requirements of the General Data Protection Regulations (GDPR) which came into force on 25th May 2018.

Equality Act 2010: The Equality Act 2010 applied 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.

An Equality Impact Assessment accompanies the Policy.

Coronavirus (Scotland) Act 2020: The Association will comply with the provision within the Act which provides additional protection from eviction during the longer term impact

of the Coronavirus pandemic. It is intended to provide certainty for tenants, including those who have become unemployed during the pandemic who are concerned about paying their rent by ensuring that they have time to apply for, and benefit from, the interventions available to support them to pay their bills before a landlord can take eviction action.

The Bankruptcy and Debt Advice (Scotland) Act 2014: Sets out the level framework for recovery of debt, including rent arrears

The Cost of Living (Protection of Tenant) (Scotland) Act 2022

Sets the scene for a winter moratorium on evictions. Note there are exceptions once of which is cases with arrears higher than £2,500.

3.2 Regulation – The Scottish Social Housing Charter

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 Association's Rent Arrears Policy will take account of and comply with the relevant Outcomes contained within the Social Housing Charter.

Outcomes 1, 9,11,13

Outcome 1: 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 9: People at risk of losing their homes get advice on preventing homelessness.

Outcome 11: 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: Tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

The Scottish Housing Regulator is responsible for monitoring, reporting and assessing how well social landlords are achieving the Charter's outcomes and standards. The Association is required to gather evidence to demonstrate to the Regulator, tenants and service users that it is meeting the outcomes, which includes the management of rent arrears.

As such this policy is aligned to Standards 3 and 5 of the SHR's Regulatory Framework.

Standard 3 – The RSL manages its resources to ensure its financial well-being and economic effectiveness.

Standard 5 – The RSL conducts its affairs with honesty and integrity.

3.3 Guidance

This policy has taken account of the guidance available including:

- Evictions of Tenancy in the Social Rented Sector (Scottish Government)
- Rent Collection under Universal Credit (Chartered Institute of Housing)
- Managing Rent Arrears (Accounts Commission)
- Guidance for Social Landlords on Pre-Action Requirements (Scottish Government)

4. Preventative Measures

NEW TENANTS

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 before the tenancy agreement is even signed. It is important that all applicants who receive an offer of housing are provided with details on rent due: ways / when to pay rent. Access to the Tenancy Sustainment Officer / benefits assessment and tenancy support will be discussed and information booklets provided. Where possible we will encourage tenants to use a Standing Order to set up rent payments.

Staff will also establish at the earliest opportunity any alternative communication needs, such as other preferred language, large print, sign language or appointed advocate etc.

Tenancy Management Team will be responsible for pre tenancy checks, verification visits and reference take up etc and if any concerns /vulnerabilities are flagged up will attend the sign ups. If necessary, staff will complete benefit applications on behalf of tenants and provide confirmation of the rent charge due.

Housing Operations and Support Team staff will promote and engage assistance from the Tenancy Management Team (including Tenancy Sustainment) to help new and existing tenants manage issues and sustain the tenancy.

Tenants will be advised to contact the Association as soon as they become aware of any problems whatsoever in making the rent payments.

A Tenancy Management Team member will wherever possible carry out a new Tenancy Home visit within 6 weeks of the tenancy commencing. This will be used as an additional measure to discuss any rent problems and the actions required to resolve matters.

FIRST PAYMENT OF RENT

Unless a tenant is anticipated to be in receipt of full Housing Benefit or Universal Credit they will be expected to pay a minimum of one month's rent at the sign up. Where sign up is on or after the 14th of the month (Rent payments are due on the 29th of the

month) tenants will be encouraged to pay 1 month plus the balance due between sign up date and the 28th of the month. An example calculation is included at Appendix one to this Policy.

Any exception to the one month rule must be signed off by the Senior Housing Officer.

Where a tenant is expected to be in receipt of full Housing Benefit or Universal Credit they should be encouraged to make a minimum payment of 2 weeks rent to cover any shortfall brought about by the eligibility start date being later than the tenancy start date. In the case of full Housing Benefit if full payment is received from the start of the tenancy then any prepaid rent can be refunded if requested by the tenant.

If a tenant on full Housing Benefit or Universal Credit cannot or will not pay 2 weeks rent then the applicant must be referred to the Tenancy Management Team who will make an assessment on eligibility for benefit and discuss the matter with the tenant.

It is anticipated that the above conversations will happen with the applicant PRIOR to any accompanied viewing and / or sign up.

EARLY ACTION / SUPPORT

As better outcomes are normally achieved, we will place a greater emphasis on personal contact with tenants, i.e. telephone calls and house visits.

At the earliest opportunity the tenant will be reminded of the help, advice and support that is available to them.

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.

REPAYMENT ARRANGEMENTS

When it becomes clear that any arrear is not going to be cleared immediately, we will look to make an arrangement for repayment. This will be set at a fair amount and confirmed in writing. Outcome 11 of the Scottish Housing Charter directs Social Landlords to ensure that suitable support is available to tenants in rent arrears so as to sustain their tenancies.

The amount to be paid towards the arrears should be based on the ability of the tenant to afford the payments. As a general rule we would not anticipate any arrangement *being for less than £5 a week and as such any lower amounts must be discussed with* and signed off by the Senior Housing Officer.

To confirm the seriousness of the situation tenants will be asked to sign and return a copy of the agreement. To avoid the cycle of broken arrangements any tenancy with more than 3 broken arrangements in a 6 month period will be referred to the Senior

Housing Officer and may be progressed into the legal process.

5. Rent Collection / Payment Options

The Association has a variety of payment methods to allow tenants to have accessible and convenient payment options to pay their rent. These are:

Allpay

Standing Order / Bank Payment

Debit Card

Direct payment of Benefit (Housing Benefit / Universal Credit)

Cash payment – whilst tenants will be encouraged to make payment by other source where possible, cash payments where offered will not be refused.

These options will be publicised through our website and 'How to Pay' booklet which will be included in tenant communications.

6. Housing Benefit / Universal Credit

HOUSING BENEFIT

Many Housing Association tenants receive assistance with their rent through Housing Benefit. We will monitor and respond to changes in a tenant's Housing Benefit award. We will contact tenants to advise of the change and the new rent charge amount to be paid. We will also advise of the available assistance from the Tenancy Management Team and other sources. This will include assistance being given to contesting Housing Benefit overpayment notifications given to our tenants.

UNIVERSAL CREDIT

Universal Credit (UC) combine 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 elements of their payment paid directly to their landlord.

The Association will assist tenants in making claims for UC. When it is known that a tenant is migrating on to UC and they meet 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.

The Association will also submit Third Part Deduction Applications to the DWP where tenants are in receipt of UC and who have accrued rent arrears of eight weeks or more.

7. Payment Culture

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 website and Facebook
- Pro-active payment contacts
- Circulation of the How to Pay your Rent leaflet
- Issuing tailored seasonal letters (eg lead up to festive period)
- Promotion of Standing Orders
- Payment frequency options (weekly; fortnightly; monthly)

8. Legal Action

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(s) 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.

The Association may take one of the following:

- Seek to recover the property only
- 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 conjoined action.

In the event that the Sheriff rules in favour of the Association, an award of legal expenses against the tenant will also be sought.

TAKING LEGAL ACTION

When 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 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 and comply with the relevant (rent) terms of the Coronavirus (Scotland) Act 2020.

PRE-ACTION REQUIREMENT

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.

- A) That the Association has given clear information about the tenancy agreement and the unpaid rent or other financial obligations.
- B) That the Association has made reasonable efforts to give help and assistance on eligibility for housing benefit and other types of financial assistance.
- C) That the Association has given information about sources of help and advice with the management of debt;
- D) That the Association has made reasonable efforts to agree with the tenant a reasonable plan for future payments
- E) That the Association has considered the likely result of any application for housing benefit that has not yet been decided.
- F) The Association has considered other steps the tenant is taking which are likely to result in payment within a reasonable time
- G) The Association will have considered whether the tenant is complying with the terms of an agreed plan for future payments; and
- H) It can be shown that the Association has encourage the tenant to contact their local authority.

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.

HOMELESSNESS(SCOTLAND) ACT 2003 – SECTION 11

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

The Association will issue the relevant local authority with a section 11 Notice when court actions are raised on behalf of the Association.

THE RIGHTS OF NON-TENANTS TO BE HEARD IN COURT

All persons aged 16 years of age and over 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 their tenancy
- A person whom the tenant has taken in as a lodger, with the consent of the Association.

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

- Check household composition when carrying out arrears interviews
- Emphasis 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

WHEN SHOULD LEGAL ACTION BE TAKEN

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 with the following factors being 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 out with the Pre-Action requirements as contained within the Housing (Scotland) Act 2010.

AUTHORISING LEGAL ACTION

Tenancy Management Officers will have the discretion to decide whether a Notice should be served within the terms of the policy. All Notices issued are checked and signed by the Senior Housing Officer or member of the Senior Management Team.

The Tenancy Management Officer will identify cases being considered for court action to the Senior Housing Officer and a letter will be issued offering the tenant the opportunity to meet with the Senior Housing Officer to discuss their situation and repayment terms.

Tenants will also be advised of the availability of debt advisory services such as the Citizens Advice Bureau.

When a Decree for eviction has been obtained against tenant, the Tenancy Management Officer will provide a report for the Director for their consideration. This report if approved will be taken to Management Committee who have the final decision on 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 committee.

Where the Committee decides to evict the tenant, the Association will advise the tenant of their decision and additionally, subject to Data Protection considerations contact the Local Authority Homeless Service and if appropriate Social Services.

The Housing Manager will keep the Committee updated in matters after their decision has been reached. Committee will be advised if decrees have been enforced or otherwise.

[OCCASIONAL] MORATORIUM ON EVICTIONS

Where the criteria for continued legal action is met the Association will continue with this even when a moratorium on evictions is in place. However throughout the

moratorium period Tenancy Management will continue to work with affected tenants to explore all opportunities to reduce arrears levels.

9. Other Arrears Types

This section deals with the following

- ❖ Technical Arrears
- ❖ Former Tenant Arrears
- ❖ Sequestered Arrears
- ❖ Committee member Arrears

TECHNICAL ARREARS

The Association will categorise technical arrears as:

- The amount that is due as Housing Benefit is paid 4 weekly against a monthly rent debit
- Confirmed monies that are due from Housing Benefit / Universal Credit, but to date have not been paid

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.

FORMER TENANT ARREARS

The Association will adopt the principals of early action in pursuing payment of arrears of rent from former tenants. The Tenancy Management Team will seek a repayment arrangement and forwarding address details from a tenant who is in arrears of rent and wished to terminate their tenancy.

The Association will monitor compliance with any repayment arrangements from a former tenant and if the arrangement is broken on one or more occasions will be passed to a debt collection agency.

In situations where the tenant terminates the tenancy but has not agreed a repayment arrangement and / or provided a forwarding address the Tenancy Management Team will make reasonable investigations to establish the forwarding address and where possible take action to recover the debt owed.

If at any time the former tenant's address is not known and / or correspondence is returned 'gone away' then the case will be forwarded to a debt collection agency who will carry out a trace.

In some instances it may not be economical for the Association to pursue amounts where:

- The balance outstanding is low

- Despite efforts 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 proportional to the amount owed.

At all points in the process, from the point a tenant indicates they wish to terminate their tenancy, [former] tenants will be advised that any actions taken by the Association to recover former tenant debt may have an adverse impact on their personal credit rating.

SEQUESTRATION /TRUST DEED

The Association will declare a tenant debt as part of the sequestration / trust deed process. 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 Committee approval when the Accountant in Bankruptcy has confirmed details.

Bad debt write off reports are normally submitted to Committee for consideration in March each year.

Sequestrated 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.

COMMITTEE MEMBERS ARREARS

The Association expects Committee Members to maintain a high standard of conduct. They are required not only to develop the rent arrears policy but to consider individual arrears cases. It is important that where the Association's Committee comprise of tenants there is not a conflict of interest. For tenant members, where rent arrears have accrued and a notice of proceedings for recovery of possession has been served the matter will be referred to the full Management Committee. A Committee Member can be removed from office if 2/3 of the remaining Committee vote in favour of this at a special meeting of the Committee convened for this purpose.

10.Procedures

The Association has a detailed procedure for dealing with rent arrears for current and former tenants in arrears.

In the case of former tenant arrears, the Association will ensure that all reasonable steps are taken to recover arrears outstanding including the use of debt collection agencies.

11.Data Protection

The Association is required to comply with the Data Protection Act 1998 and the General Data Protection Regulation. Information provided to and sought by the

Association in connection with rent arrears can only be used for this purpose. All such information is treated in the strictest confidence.

The Housing (Scotland) Act 2001 requires that qualifying occupiers must be served a Notice for Recovery of Possession in addition to the tenant. In this case the rights of qualifying occupiers supersede the Data Protection provisions. Qualifying occupiers require information about any intended legal action against a tenant to enable them to defend their legal rights. Qualifying occupiers are members of a tenant's family, aged 16 years and over, living with the tenant in the property.

12. Liaison with Social Services and Other Agencies

The Association's staff will liaise, as appropriate, with Social Services and other agencies who are involved with households in arrears. Any exchange of information will be treated with the strictest confidence in accordance with the terms of the Data Protection Act 1998.

In accordance with the Homelessness etc. (Scotland) Act 2003 when court proceedings are being raised to obtain a Decree for Repossession against a tenant the Association will serve a Section 11 notice on the relevant local authority.

13. Equal Opportunities

The Association aims to promote equal opportunities and will ensure that its staff act in a manner which will not discriminate against any individual, household or group on the grounds of any of the nine protected characteristics set out in the Equalities Act 2010. These are:

- Age
- Disability
- Gender Reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex
- Sexual orientation

Additionally we will use equalities data to assist us to identify any group which may be more susceptible to rent arrears than others and an action plan will be developed looking at how different approaches may be more effective than others.

14. Consultation

Consultation with the community and tenant 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 requires all social landlords to take tenants' views into account when formulating key service delivery

policies.

In drafting this policy we have consulted with applicants, tenants and staff.

15. Complaints

The Association is committed to providing high-quality customer services. It accepts that despite the best efforts of staff, problems may arise from time to time. If its customers feel dissatisfied with its policies, the way these are implemented or the level and quality of service provided, they may wish to make a complaint.

Should such a situation arise staff are committed to investigating the matter fully and ensuring a satisfactory solution is achieved as quickly as possible.

The Association has adopted the SPSO's complaints handling procedure which sets out the standard approach to handling complaints which is to be used across the housing sector.

Tenants who are dissatisfied with the way that their arrears have been handled can use the Association's complaints handling procedure.

Details of our Complaints Policy can be obtained from the office or from our website.

16. Performance Monitoring

Senior Management will undertake documented periodic reviews of the actions being taken for arrears to ensure appropriate measures are being taken in compliance with the procedures and provide guidance on subsequent actions which should be taken.

In order to measure the success of this policy and associated procedures, Committee will monitor performance on a quarterly basis. Individual cases will not be considered (apart from where there is an eviction decree), rather performance against targets and trends in evidence will be examined.

Additionally a quarterly equalities report will be taken to committee.

The Committee 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 Tenancy Management Team and the Housing Manager will monitor arrears performance each month ensuring cases are being effectively managed by involved staff.

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

The Association recognises the risks that rent arrears, Covid 10 and welfare reform present to its business plan this is affirmed by their inclusion within the Association's Corporate Risk Register and Business Plan, which provides for a further level of

monitoring.

17. Review

This policy will be reviewed at least every 5 years or earlier if legislation changes.