



Gardeen Housing Association Ltd
Building a Better Future

GARDEEN HOUSING ASSOCIATION

RENT ACCOUNT MANAGEMENT POLICY

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1 INTRODUCTION

- 1.1 One of the main objectives of Gardeen Housing Association is to provide affordable rented housing. It is essential therefore that the Association has an efficient and effective policy to deal with rent collection and arrears prevention control and recovery. This must be accompanied by clear procedures, which are implemented consistently and fairly by trained staff, monitored by the Management Committee and communicated clearly to current and former tenants of the Association.
- 1.2 Through our policy and practices the Association will strive to meet Scottish Social Housing Charter Outcomes 14 and 15: Rents and Services Charges: “A balance is struck between the level of services provided, the cost of the services, and how far current and prospective tenants and other customers can afford them. Tenants get clear information on how rent and other money is spent, including any details of individual items of expenditure above thresholds agreed between landlords and tenants.”

The Association will also strive to achieve the outcomes and standards set out in the Scottish Social Housing Charter in relation to tenancy sustainment. Social landlords will 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.
- 1.3 We also seek to support our tenants to try and help them avoid debt and the risks of their tenancy being terminated.
- 1.4 All decisions taken in terms of this policy will take into account that everyone has a human right to respect for their family life and their home.

2 POLICY OBJECTIVES

- 2.1 To maintain an efficient system for rent collection and arrears control so that the financial stability of the Association is assured and rental income is maximised.
- 2.2 To enable the Association to minimise costs and keep rents at an affordable level. The Association recognises that a high proportion of its existing and future customers are on low or fixed incomes, and in particular the difficulties faced by those who receive partial or no Housing Benefit/assistance with housing costs. The Association will give every assistance to tenants to help them maximise their income.
- 2.3 To provide a sensitive and personal service to tenants to help them maintain their tenancies. Critical to the achievement of this objective is the early identification of potential difficulties with payment before the debt increases to a serious level.
- 2.4 To liaise with other appropriate organisations and agencies towards reducing

arrears and obtaining support and assistance to tenants.

- 2.5 To ensure the accountability of staff in adhering to the agreed Policy and Procedures of the Association and to ensure sufficient and adequate reports are provided to the Management Committee of the Association, whilst safeguarding the privacy of the individual tenant.
- 2.6 The Association will strive to achieve the outcomes and standards set out in the Scottish Social Housing Charter.
- 2.7 To ensure that all staff and Management Committee members receive appropriate training and support to meet the requirements of this policy and related procedures.

3 EQUAL OPPORTUNITIES

- 3.1 The Association will ensure the promotion of equal opportunities by publishing information and documents in different languages and other formats such as large print, tape and Braille as required.
- 3.2 The Association will ensure that no individual is discriminated against on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

DELEGATED AUTHORITY

- 4.1 The Management Committee of Gardeen Housing Association have authority to monitor rent collection and arrears control and recovery and to instruct action to be taken, including court action, in individual cases in order to secure payment.
- 4.2 Any decision to proceed with the enforcement of a decree for repossession and/or recovery of a debt must be taken by the Management Committee. In exceptional circumstances where a Management Committee meeting will not be held within the timescale required, then the Association's Office Bearers (Chairperson, Vice Chairperson, Treasurer and Secretary) may or may not give such authorisation. Any such decision of the Office Bearers must be reported to the next meeting of the Management Committee and recorded in the minutes of that meeting.
- 4.3 The Management Committee has delegated authority to the Senior Property Services Officer to take action up to and including the service of a Notice of Proceedings for Recovery of Possession and the pursuit of Court action to the point of obtaining decree for repossession and/or recovery of the debt.
- 4.4 The Association's staff have the authority to write letters, visit or interview tenants and make arrangements for payment as is appropriate. The Senior Property Services Officer is responsible for monitoring the work of the Property Services Officer's work in this area. The Director is responsible for monitoring

the work of the Senior Property Services Officer in this area on a regular basis. The Senior Property Services Officer has day-to-day responsibility for the management and monitoring of all rent accounts, although some of this may be delegated to the Property Services Officer.

5 RENT COLLECTION POLICY

5.1 Rent is due on the 28th of each month in advance for the following month for all tenancies.

5.2 Payment can be made by one or more of the following methods:

(1) **By Allpay payment methods – Payment card, Direct Debit, Telephone, Internet**

Payment cards are issued to all tenants as a matter of course. No charges are payable by the tenant. While the rental is charged monthly, more frequent payments e.g. weekly are acceptable by arrangement with the staff.

Tenants can pay by cash or cheque at any Allpay payment outlet. With Allpay, tenants can also set up payments over the telephone, through the internet or by direct debit. Where a tenant's payment is not honoured and the payment is reclaimed, the tenant will be advised and requested to make the payment again. Where a tenant's payment is not honoured on more than 3 occasions, the Association reserves the right to request that payment is made in cash until further notice. The tenant may be recharged the cost of any charges applied for non-honoured payment(s). The Association will encourage tenants to pay their rent by Direct Debit and assist tenants to set this up.

(2) **By standing order through a bank**

Second to Direct Debit, the Association encourages the use of standing orders in appropriate cases and will issue a standard form to tenants with its bank details for this purpose.

(3) **Payment from Glasgow City Council Housing Benefit Department and Department for Work and Pensions**

The Association presently receives payments for tenants in two batches, and in arrears each month, in addition to any backdated payments that are made for individual tenants. The Association will encourage tenants to mandate their Housing Benefit direct to the Association. However as Universal Credit is introduced, the amount of rent that Glasgow City Council Housing Benefit department pays the Association will decrease accordingly. Direct payments are received by the Association from the Department for Work and Pensions (DWP) in respect of Universal Credit.

(3) **Arrears deductions from Income Support/Job Seekers Allowance (JSA) made by the Benefits Agency**

These are normally requested on every occasion where a tenant owes the equivalent of more than 8 weeks rent. Payments are remitted monthly in arrears to the Association.

(4) **Payments at the Association's office (when open)**

The Senior Property Services Officer should review the overall level of payments being made at the office regularly. As Universal Credit is introduced, it is expected that the number of people paying by cash in the office and the amount of cash received at the office will increase therefore it may be necessary to go to the bank much more regularly for security reasons. Chip and Pin payments are received at the office, in person or over the telephone.

(5) **Home collection**

For security reasons the Association will attempt to keep any home collections at a minimum such as an infirm tenant with no relatives. However, as Universal Credit is introduced, it may be necessary to visit tenants at home more and collect cash. The Association will attempt to minimise such occurrences and try to ensure that 2 staff members are present for cash collections. The circumstances in which a single member of staff takes payment anywhere other than at the Association's office should be kept to a minimum. In such circumstances a receipt signed by the staff member and tenant at the time of such payment should be made out with a copy for both the Association and the tenant.

5.3 The rent charged for properties will be in accordance with the Association's Rent Setting Policy.

5.4 All tenants will be given at least one month's prior written notice of any rent increase. At present, all increases are effective from 28th March in each year. Details of all increases are passed to Glasgow City Council's Housing Benefit Office at least one month in advance of the effective date. Association staff will monitor individual accounts to ensure that all entitlements are adjusted accordingly where payment is still received direct from Glasgow City Council Housing Benefit department.

Tenants in receipt of Universal Credit housing costs are responsible for updating the Department of Work and Pensions of the rent increase via their journal annually.

6 RENT ACCOUNTING PROCEDURES

6.1 Staff will maintain a computerised rent accounting system. Any payments, other than Housing Benefit payments, will normally be posted on the day of

their statement receipt (Allpay by downloading from Allpay, and bank payments (Standing Order, Rent Direct, Universal Credit, Chip & PIN and Cash to Office) by downloading from the Association's internet banking. They should be posted within 3 days of receipt except in cases of system failure, or where the monthly debit or balance programs are due to be run beforehand.

Housing Benefit payments are received electronically and shall be posted to accounts after confirmation that the sums detailed on the schedules have actually been credited into the Association's bank account.

Every effort should be made to ensure that the information available on payments and arrears is accurate and up to date.

6.2 The following procedures are carried out by Association staff:

- running the monthly end of period balance report and reconciling this. Running all associated rent arrears reports and excel exports as quickly as possible after the relevant month end, once all postings and adjustments complete, ideally within 3 working days of the month end.
- running the monthly rent debit program immediately after the end of period balance report.
- running arrears reports for all tenants before any payments are posted. Reports will be split into under £600, over £600 and former tenants.
- running all rent arrears letters to tenants and pursuing payments.
- posting of all payments
- adjustments required to individual accounts. Any adjustments are recorded on standard forms and have to be authorised by another staff member before they are entered onto the system.
- adjustment of rental charges as appropriate e.g. rent increases.

7 RENT ACCOUNT MANAGEMENT POLICY - GENERAL

- 7.1 As tenants are due to pay their rent monthly in advance, a tenant shall be regarded as being in arrears with rent where their account shows an arrears balance after the debit is run.
- 7.2 All arrears, including those due from tenants who are in receipt of Housing Benefit, those in receipt of benefit and who under occupy their home and those of former tenants will be pursued. Where it is known that a debt is irrecoverable, staff must receive authorisation from the Management Committee before an arrear can be written off. The Senior Property Services Officer will provide a report to the Management Committee on an annual basis in respect of bad debt write offs.

7.3 Restriction of Planned Maintenance and Improvements

- 7.3.1 The Association reserves the right to suspend or defer participation in any non-essential planned maintenance, modernisation, or improvement programs where a tenant is in breach of their tenancy agreement, specifically including cases where rent arrears exist.
- 7.3.2 For the purposes of this policy, non-essential planned maintenance includes, but is not limited to, the planned replacement of kitchens and bathrooms.
- 7.3.3 This restriction will not apply to, and the Landlord will continue to fulfill, all statutory and reactive repair obligations necessary to maintain the property in a safe, wind and watertight condition, and fit for human habitation, in accordance with the Housing (Scotland) Act 1987 and the Scottish Housing Quality Standard.
- 7.3.4 The suspension of planned maintenance will be reviewed upon the tenant clearing the outstanding arrears in full as at the end of the month.
- 7.3.5 Exceptional circumstances, including household vulnerability or cases where withholding the maintenance would cause long-term structural damage to the property, will be considered by management on a case-by-case basis.

8 PREVENTION OF ARREARS

- 8.1 Association staff will make every effort to prevent rent arrears occurring. When an offer of tenancy is made, staff will advise of the monthly rental charge, the payment methods available and the availability of Housing Benefit/Universal Credit.
- 8.2 When a new tenancy is created, the following will be done:
 - (1) The new tenant will be advised that rents are payable monthly in advance and will be advised of the payment methods available. The tenant shall also be advised of the Association's Rent Account Management policy at the sign-up interview. The need for regular payments to avoid arrears will be emphasised, together with encouragement to contact staff in the early stages of any difficulty.
 - (2) An Allpay payment card will be requested and will be issued to the tenant.
 - (3) A Housing Benefit/Universal Credit form will be completed, where appropriate. In the event of any doubt over entitlement, the tenant will be encouraged to apply. The tenant should also be advised not to delay submission of the application where proof of income cannot be provided immediately, as this could lead to loss of benefit. The tenant will be advised of the need to verify their circumstances with the Local Authority/DWP and the need to provide original documentation, in line with the verification framework.
 - (4) The tenant will be encouraged to have their benefits entitlement

checked where appropriate. An appointment may be arranged with a Welfare Rights Officer (if the Association currently employs one) or with an advice service such as Greater Easterhouse Money Advice Project (GEMAP), with the tenant's agreement.

- (5) Where it is likely that a tenant will not receive full rent benefit, wherever possible an interim arrangement for payment should be made, pending assessment of the claim.
- (6) Prompt action by housing staff at the first sign of non-payment, to prevent the accumulation of serious debt. Tenants on fixed incomes e.g. benefits, pensions and those in temporary or part-time employment are particularly vulnerable and may have difficulty in repaying even relatively small amounts of money.
- (7) A new tenant shall receive a home visit within 28 days to ensure that rent payments have commenced or to resolve any difficulties or to provide information regarding Housing Benefit entitlement.
- (8) A Housing Benefit/Universal Credit mandate will be signed by the tenant authorising the Association to be able to contact Glasgow City Council's Housing Benefit department or the Department for Work and Pensions on the tenant's behalf or to query their claim.

9 ARREARS CONTROL: EARLY STAGES

- 9.1 The Senior Property Services Officer will identify all arrears cases and monitor individual rent accounts, using the arrears summary lists that will be run immediately after the rent debit. The Senior Property Services Officer will delegate some of this responsibility to the Property Services Officer whilst still regularly monitoring cases. Rent arrear accounts will be checked on a weekly basis to monitor progress. The Director will oversee the work of the Senior Housing Officer and monitor performance.
- 9.2 When a new arrear is identified, the Property Services Officer or Senior Property Services Officer will write to the tenant, advising that the account is in arrears and requesting payment immediately. If the tenant is unable to do so, the tenant will be advised to contact housing staff immediately to discuss the difficulty "in confidence" and to make an arrangement for future payments. Where Housing Benefit is awaited, the tenant should be asked to ensure that all information required for the processing of the claim has been provided to the Council.

Standard personalised letters will be used, where appropriate, to ensure that all tenants are treated in a fair and similar manner. Where circumstances are such that a standard letter will not suffice, an alternative individual letter will be issued. Tenants will be advised of all tenancy debts in order to comply with government legislation i.e. rent arrears, rechargeable repairs debt and legal expenses owed. Information regarding welfare rights and similar agencies who can offer advice and assistance will be printed on the reverse of any arrears letter sent to a tenant.

9.3 Clear computerised records will be kept of all contact with the tenant together with confirmation of the repayment agreement that has been made. This should include:

- the current level of arrears and details of any other tenancy debts
- the payments required to cover current rent and a contribution to the arrears. The arrears portion should be no less than the amount currently deducted by the Benefits Agency for rent arrears from Income Support/JSA.
- the starting date for the arrangement and the frequency of payments required
- A statement advising that unless we hear from the tenant to the contrary within 7 days that the Association will assume that the tenant has had time to consider the plan and agrees to it
- The Association will request that the tenant completes and returns an income and expenditure form in order to comply with government legislation

Electronic copies of correspondence issued in respect of tenants arrears will be kept in the tenants file.

9.4 Housing staff have discretion as to the rate of repayment of the arrears requested of the tenant.

The following factors will be taken into account:

- the level of the arrears
- the amount payable towards current rent
- the household income and any likely changes in the short-term.
- previous contact and arrangements made with the tenant.
- The length of time it will take to clear the arrears
- previous legal action taken, including the service of formal Notices.
- any personal or Housing Benefit/Universal Credit claims or reassessments outstanding, provided that the tenant is co-operating fully with the relevant agencies to have these matters progressed.

9.5 Unrealistic offers to pay will be discouraged as such arrangements will be short-lived. The objective should be to ensure that the arrangement is at a level that can be maintained until the arrear is cleared. Where a tenant is known to have multiple debts, he/she should be referred immediately for debt counselling and adjustment by an authorised agency. Any refusal of such a referral by the tenant should be recorded but should not prevent staff from raising sources of assistance with the tenant again.

9.6 Wherever possible, the Association should follow up with a confirmation of arrangement letter being sent to the tenant.

9.7 Once an arrangement has been made, the Property Services Officer and Senior Property Services Officer are responsible for monitoring it.

- 9.8 Where arrears arise through a delay or error in the payment of Housing Benefit/Universal Credit payment, details of the cause and action taken will be recorded. Tenants will be advised of the arrear and reminded that they are responsible for ensuring that their rent is paid, regardless of the source of payment. The tenant will be expected to co-operate quickly to have such issues resolved, and will be pursued to this end.

10 LIAISON WITH OTHER AGENCIES

- 10.1 Liaison with other agencies is an essential part of the arrears control process. Association staff will be required to liaise regularly with the following agencies:

10.2 Housing Benefit Office of Glasgow City Council

- (1) Tenants are encouraged to claim Housing Benefit where appropriate. Housing staff will keep tenants advised of any changes to or ceasing of their entitlement together with details of any backdated awards received and the implications for their rent accounts, whenever these details are received by the Association.
- (2) Individual emails are compiled and emailed to the Housing Benefit office for an update. The practices may change from time to time as determined by the working agreement between Housing Benefit Services and RSLs. The Association will strive for good working relationships with the Local Authority Housing Benefit service.
- (3) Individual tenants will be contacted in writing regarding specific aspects of their claims as required.

10.3 The Department of Work and Pensions

Where arrears direct payments are requested from a tenant's Income Support/JSA, the Senior Property Services Officer/Property Services Officer will monitor the response from the Benefits Agency and establish whether deductions will be made. The tenant should be advised in writing by Association staff when such deductions start, change or stop for any reason. Where the deductions are stopped permanently, an alternative arrangement must be made with the tenant following receipt of the notification from the Benefits Agency.

The Department for Work and Pensions will have responsibility for processing Universal Credit claims. The exact nature of how this will work in practice has still to be determined.

10.4 Advice Agencies

Gardeen Housing Association shall foster good working relationships with recognised agencies that provide assistance and support to tenants in the area of money and debt advice and counselling and general legal advice. In

particular, where a tenant agrees, a referral shall be made to the Association's Welfare Rights Officer, if there is one employed, or to an alternative advice agency such as, the Greater Easterhouse Money Advice Project (GEMAP) to check benefits entitlement and to receive money/debt advice. Referrals may also be made to the Citizens' Advice Bureau or Social Work Department provided that specific advice or assistance is available to the tenant. Where a tenant proposes an arrangement to pay via another agency or solicitor, it is important that the agency or solicitor confirms the details in writing or Association staff record the details on the tenant's electronic file.

11 ARREARS CONTROL: FURTHER ACTION

- 11.1 Where a tenant newly in arrears does not respond to a letter and makes insufficient or no payment, staff will invite the tenant to an office interview or alternatively will arrange to visit the tenant in his/her home (where Covid-19 restrictions allow). The tenant will also be attempted to be contacted by telephone, email, text or through emergency contact details. The earlier contact can be made with the tenant the more likely chance of successfully resolving matters. The objective remains to identify the reason for non-payment and to reach an amicable agreement about how the problem can be managed. However, the Association must also make the tenant fully aware of the potential risk to the tenancy if he/she does not co-operate.
- 11.2 Where an existing arrangement breaks down and the tenant does not resume payment and/or make contact after being contacted by letter, email, telephone and/or text, staff will arrange an interview or visit as stated above (where Covid-19 restrictions allow).
- 11.3 In all cases, any new or revised arrangement must be recorded in writing as detailed in section 9.3. All attempted contact with a tenant and all lack of response must be clearly documented, including details of letters sent, cards left and so on. The Property Services Officer/Senior Property Services Officer will contact the Housing Benefits/DWP Office and/or DWP Landlord Portal to check for any potential new claim or reassessment, which has not been advised by the tenant. If a tenant is more than eight weeks in arrears and in receipt of Income Support/JSA and full Housing Benefit, the Association must apply to the Benefits Agency for arrears deductions to be made directly from the tenant's Income Support/JSA.

Where a tenant is in receipt of Universal Credit and is more than 2 months in arrears and the repayment arrangement has broken down, the Association must apply for direct payments of Universal Credit housing costs.

A tenant in arrears will be requested to provide details of all qualifying occupiers who reside in the house. The tenant will be notified that all qualifying occupiers will require to be informed of any Notice of Proceedings which requires to be served.

- 11.4 The Senior Property Services Officer will review the management of arrears cases by the Property Services Officer and will check that the action taken to date has been satisfactory. The Senior Property Services Officer will

recommend further action to the Management Committee as appropriate. Liaison between the Senior Housing Officer and the Director over specific cases will continue throughout the month as required. In the absence of the Senior Property Services Officer, the Director will make a check on progress.

12 FURTHER ACTION – NON LEGAL AND LEGAL REMEDIES AVAILABLE

12.1 Non Legal Action

Rent Direct

Where a tenant is in receipt of Income Support/JSA, or similar, and has more than eight weeks of rent in arrears the Association must seek rent direct payment where possible.

Rent Direct comes in the form of a deduction from the tenant's Income Support/JSA and would be paid direct to the Association.

Where a tenant is in receipt of Universal Credit and is more than 2 months in arrears and the repayment arrangement has broken down, the Association must apply for direct payments of Universal Credit housing costs.

12.2 Legal Issues

In circumstances where a tenant persistently fails to pay rent or has broken arrangements for payment or where arrears are at a level that the Association believes no other alternative action is appropriate, legal proceedings will be commenced.

All legal action authority is delegated to the Senior Property Services Officer, except for executing a decree for eviction. Authority is delegated to the Senior Property Services Officer to instruct the serving of notices against tenants in rent arrears. All legal action instructed should be reported to the Management Committee quarterly.

All legal action, whether in the form of Payment of Debt or Recovery of Possession, will be notified to the Management Committee.

Types of Legal Action

The forms of legal action open to the Association include the following:

A: Payment of Debt

There are a number of payment of debt actions open to the Association, which include those detailed below:

- Simple procedure Action

For debts of £5000 or less a summons is served on the tenant stating the details of the debt. If the tenant does not respond then the court will grant an

open payment decree. Otherwise the court may grant a repayment decree, or an instalment decree or defer the case.

If a response is made then a hearing may be fixed by the court at which, both the Landlord and the tenant can bring witnesses. The court usually makes a decision within 28 days of the proof hearing.

Recovery of legal costs is limited and will not cover the full cost of action.

- **Conjoined Action**

For recovery of possession and debt. This covers all rent arrears of up to £5,000. An action is raised for both payment of the debt and for recovery of possession of the property. The Court will only grant decree for recovery of possession of the property if it considers in all the circumstances that is "reasonable" to do so. The Court action may be continued or sisted to monitor any repayment arrangement which has been offered by the tenant and accepted by the Court or agreed between the association and the tenant.

The tenant should always be advised that any payment arrangement agreed is subject to the court allowing the action to be continued or sisted to monitor the payment arrangement, and that if the court refuses to continue or sist the action then the Association will require to move for decree for eviction.

- **Ordinary Cause Action**

For debts over £5,000 the ordinary cause action is available. An "initial writ" is served informing the tenant of the court hearing date and asking whether he or she intends to defend the action. If the tenant ignores the writ the court grants a decree of payment and for repossession. If the tenant admits the debt he or she can seek a time to pay direction, permitting payment in instalments or defend the action.

Recovery of full legal costs is possible in this type of action.

Methods of Debt Enforcement

If the tenant fails to make the necessary payments under a decree, the landlord can enforce the debt using the remedies available under the Debtors (Scotland) Act 1987.

- **Arrestment of Earnings for a tenant**

If the Association has employment details for a tenant in rent arrears against whom a decree has been granted it can instruct a Sheriff's Officer to serve a charge on the tenant to pay the full amount within 14 days. If the tenant does not do so the Association can serve a schedule of arrestment on the employer, who is required to deduct a specified sum from the tenant's net earnings each pay day and pass this to the Association. The proportion of the tenant's salary which can be deducted each payday is laid out in the Act.

- **Conjoined Arrestment Order**

This type of action is similar to an arrestment of earnings and is used when the tenant has more than one ongoing arrestment. The Association applies to the court for a conjoined arrestment order, which is served on the employer by a sheriff officer. The employer must deduct the permissible sum specified in the Act from the tenant's earnings and pass this to the sheriff clerk who divides it amongst the creditors.

The effectiveness of such orders is limited by the sliding scale of payments permissible and the fact that ongoing rent still has to be paid from the tenant's now reduced income, and so they are appropriate in only a few cases.

Arrestment of Bank Account

If the Association has details of the tenant's bank account and is confident that the account contains funds, it can serve an arrestment on the bank, which requires the bank to freeze the tenant's account if there is more than £415 in the rent account.

B: Recovery of Possession

Recovery of possession will normally only be pursued as a last resort by the Association when steps to obtain payment within a reasonable time has failed. The Association recognises that it is more likely to recover a debt whilst the tenant remains in their home and that housing need is not met by eviction. Whilst a Court action is ongoing all efforts will be made to continue to come to an acceptable repayment arrangement with the tenant.

In order to recover possession of a property on the grounds of rent arrears court action must be taken as only a sheriff can grant possession.

The grounds for repossession and the procedures that must be followed are those detailed within the tenant's Tenancy Agreement and the Housing (Scotland) Act 2001.

13 LEGAL ACTION – THE ASSOCIATION'S PROCEDURE

13.1 As a caring and responsible landlord, Gardeen Housing Association will only take legal action to terminate a tenancy on the grounds of rent arrears as a last resort where personal contact with the tenant has failed to achieve agreement over repayment or where the tenant has consistently failed to maintain arrangements that have been made.

13.2 Notices of Proceedings for Recovery of Possession

The Senior Property Services Officer has delegated authority to approve the instruction of the Association's tenancy solicitors to issue a Notice of Proceedings for Recovery of Possession upon a tenant and qualifying occupiers as detailed in the Housing (Scotland) Act 2001.

- 13.3 Where a tenant is three months and/or over £500 in arrears or more, and no satisfactory agreement has been reached, the Senior Property Services Officer will instruct the appropriate Notices to be served. A tenant should have normally received at least three letters/emails and an actual or attempted visit/office interview before a Notice is served, (where Covid-19 restrictions allow) except where a Notice is being issued to replace one that has expired. Where existing arrangements have broken down and attempts to re-establish them have failed, Notices may also be served.
- 13.4 Cases where the tenant is under three months and/or under £500 arrears, but he/she has consistently failed to make payment or where other serious breaches of tenancy have occurred, may have Notices served. These will be requested by the Senior Property Services Officer and decided on case-by-case basis.
- 13.5 Before the solicitor issues the Notices, the tenant should be advised in writing that the Notices are to be issued and the reasons for same. This explanatory letter should strongly encourage the tenant to make personal contact with Association staff for a full discussion of his/her position so that an arrangement can be made. The letter should also advise the tenant of his/her right to seek legal and/or debts advice, the amount of legal expenses which will be claimed by the Association if the case proceeds to court, the potential loss of his/her home, that the tenant should contact the homelessness section of the local authority and the effect of a court decree on his/her ability to obtain credit in the future.
- 13.6 When requesting that Notices be served, the Association's solicitor shall be provided with a copy of the tenant's rent account and the Tenancy Agreement together with details of any benefit entitlement and arrangements made or offered and their outcome. Copy correspondence should be received from the solicitors, which confirms the grounds under which court action is possible and the date from which the Notice is effective.
- 13.7 Once a Notice of Proceedings have been issued for rent arrears, a tenant has at least four weeks prior written notice that the Association may take legal action to terminate the tenancy. Association staff should continue to make every effort to reach a voluntary agreement with the tenant over repayment. All such agreements must be recorded in writing and monitored closely. Tenants will be advised that if we need to raise Court action we also need to inform Social Work Services. As such, when such legal notices are served the Association will write to Social Work Services to advise them of this action. Tenants will be advised that if we need to serve notices we will also inform Social Work Services.
- 13.8 A Notice of Proceedings for Recovery of Possession is valid for six months from the effective date shown on the Notice. A spreadsheet of Notices served and their renewal dates will be maintained by Association staff. A decision taken to renew or not renew an individual Notice will depend on the level of the arrear and progress made in reducing the arrear over the past six months, and will be taken by the Senior Property Services Officer.
- 13.9 **Court Action**

Where a Notice of Proceedings has been served and no agreement is reached or it is not maintained satisfactorily, the Senior Property Services Officer has delegated authority to instruct Court action be taken to recover the debt and/or to repossess the property. Wherever possible, staff will have interviewed or attempted to interview the tenant prior to the raising of Court action.

- 13.10 Court action will only be instructed as a last resort where other options have been exhausted. The tenant will be advised to seek legal advice and /or to attend court. Unless agreed otherwise, the action will be for payment of arrears and repossession. The Senior Housing Officer will authorise the instruction of the Association's solicitor and will ensure that all the necessary information is made available to the solicitor to successfully pursue the case. The Senior Property Services Officer will attend court if the tenant defends the action.

- 13.11 Where decree is obtained, this may only be implemented with the prior specific authorisation of the Management Committee following a written report. The Association may, at its discretion, accept full payment of the debt and expenses, which are awarded rather than implementing decree. The same shall apply where the tenant offers to pay the bulk of a debt or offers a further repayment arrangement. The Committee shall have regard to any previous court action, which has been taken concerning a specific case. The eviction decree can be used for up to 6 months from the date the decree was granted. Any decision whether or not to implement the decree must be clearly recorded in the minutes of the relevant Management Committee meeting. The Association will only implement a decree for eviction as a last resort.

Within 7 days of the solicitor informing the Association of the date of service of the Court action by Sheriff Officers, the Association will email a notice in terms of Section 11 of the Homelessness Scotland Act 2003 upon the homeless section of the local authority. At the same time a copy of the Section 11 notice will be emailed to the Association's solicitor.

After the Court action has been raised, continuing efforts will be made to attempt to agree a suitable and acceptable repayment arrangement with the tenant. The tenant will be advised that the repayment arrangement is subject to the court agreeing that the case can be continued or sisted to monitor the payments and that if the court does not so agree then the Association will move for decree for repossession. If such an arrangement is entered into then the Senior Property Services Officer may instruct the Association's solicitor to continue the action or sist the action to monitor payments rather than moving for decree for repossession.

- 13.12 At least fourteen days' written Notice shall be given to the tenant by Sheriff Officers that the Association intends to enforce the decree for recovery of possession. Prior to the enforcement of a decree for repossession, the Senior Property Services Officer will notify Social Work and Glasgow City Council's Homelessness Services as well as any other agencies known to be specifically providing support and/or representation to the tenant on this matter.

- 13.13 **Small Debts Action**

Where a tenant has long-term arrears below the level where repossession action would be considered and he/she has consistently failed to reach or maintain an arrangement for repayment, the Association may use the Simple claims procedure to try to enforce payment. Staff will liaise with the Association's tenancy solicitor in assessing whether the action is appropriate in specific cases. Such action will be reported to the Management Committee.

14 REPORTING TO COMMITTEES OF THE ASSOCIATION

- 14.1 The Management Committee shall be provided with quarterly written reports, which shall include the following information:

Period End Account Statistics – For Accounting & Auditing Purposes

- (a) a statistical period end accounting report on the annual rent receivable and the totals of current and former tenant arrears for all properties. Details should be expressed both as a monetary figure and as a percentage of the annual rent receivable.
- (b) a short commentary highlighting any factors affecting the current position, comparing previous months' figures, and noting any likely upturn or down turn in the short-term.

Debit Statistics – Arrears in Terms of Tenancy Agreement Breaches

- (a) analysis of the arrears by the amount owed and the number of tenants within each banding level.
- (b) a summary of trends in relation to rent arrears cases where the balance owed is greater than £600 or any different amount as may be agreed by the Management Committee from time to time.
- (c) Legal Action statistics, detailing numbers of Notice of Proceedings for Recovery of Possession that has been served.

- 14.3 Where implementation of a recovery of possession decree is being recommended, a more detailed individual report will be provided to the Management Committee, reviewing the history of the case, action taken, arrangements made etc.

- 14.4 The Senior Property Services Officer shall review progress made in arrears management with the Director prior to recommendations being made to the Committee at the internal management planning day on the adoption or revision of performance targets. The performance target in relation to arrears will be reviewed annually at the internal management planning day or year start target exercise and six monthly at the review of the IMP targets and performance if required.

15 CONFIDENTIALITY/RELEASE OF INFORMATION

- 15.1 All information, whether verbal or written, regarding a tenant's rent account is confidential, and both staff and committee members must observe this. Where a tenant prefers to discuss his/her affairs at home rather than in the office, this should be respected, provided that this takes place within normal working hours and there is no actual or potential risk of harm to staff in doing so. The Association has no obligation to discuss a tenant's rent account with any other person without the specific prior consent of the tenant. Where any doubts exist, a signed written mandate form should be received.
- 15.2 Where an individual case is reported to Committee, no names or addresses will be provided, either verbally or in writing. The case must be coded, using the Association's arrears coding system so that Committee can monitor progress with the case. Only the Director and housing management staff should have access to the list of codes, apart from those formally authorised to carry out audits of the Association's activities such as the Scottish Housing Regulator and appointed auditors.
- 15.3 It is essential for monitoring and control purposes that the Management Committee receive sufficient information for them to assess whether the action taken has been satisfactory and in accordance with this Policy. However, care must be taken by staff not to provide such detailed information that the confidentiality of the tenant is breached as a result.
- 15.4 All current and former tenants must give their prior written consent to a tenancy report being provided by the Association to another landlord/agency for housing purposes. The Association will not provide references for the purposes of securing credit. A tenant is able to obtain a copy of his/her rent account directly from the Association.

16 FORMER TENANT ARREARS

- 16.1 The Association recognises that previous success in reducing the level of former tenant arrears has been limited. It remains fully committed to recovering such arrears where practicable and with reducing the number of absconctions prompted by arrears, by more effective arrears management generally.
- 16.2 Where the tenant has forwarding address the former tenant will be contacted and asked to come to an arrangement to clear the arrears. Where a former tenant is unwilling to co-operate the Association may take court action to recover the arrears. The Senior Property Services Officer will approve such action. In the case of serious arrears, the Association may use the services of tracing agencies in order to identify the new address of a former tenant, for the purposes of debt recovery and/or court action. Where decree for the debt is already held, the Association will discuss with its solicitors if and how the decree may be enforced in specific cases, before reporting on same to the Management Committee.
- 16.3 The Association may employ debt recovery agencies for pursuit of former tenant debts. This is currently approved for all debts over £100.00.

- 16.4 The Senior Property Services Officer will review all former tenant arrears cases for possible action as required.
- 16.5 The Senior Property Services Officer will provide an annual report to the Management Committee recommending former tenant arrears for write off. Arrears will only be written off where recovery is unlikely or uneconomical.

17 CREDIT BALANCES ON ACCOUNTS

The Senior Property Services Officer will review the summary of credit balances on rent accounts at least every six months.

18 COMPLAINTS PROCEDURE

Prior to raising Court action, if a current or former tenant is aggrieved at the way in which the Association has dealt with his/her rent account and/or arrears position, then he/she is entitled to use the Association's Complaints Procedure. Any complaint about the way the association as dealt with the rent account and/or arrears after the Court action has been raised, can only be raised by the tenant with the Court.

19 REVIEW OF POLICY AND PROCEDURES

- 19.1 The Management Committee will review the Rent Account Management policy at least every 3 years.
- 19.2 The Association is required to consult tenants on any proposed changes to policies. In order to take account of this the following procedure will be followed:
 - (a) Notification of review taking place through newsletter or mail drop to all tenants. Newsletter/mail drop to have a reply slip for tenants to register their interest in being involved in the review. Tenants will be signposted to different ways they can feedback via survey facilities (online), telephone, email, the Gardeen App, regular mail and coming into the office (where Covid-19 restrictions allow).
 - (b) There will be a period of at least 2 weeks for consultation prior to the Committee considering the review. All comments received will be advised to Committee as part of the review process.
 - (c) On completion of a draft revised policy approved by Committee, there will be at least a further 2 week period for tenants to consider the revised policy and make comment.
 - (d) The Policy and any comments from consultation shall be taken to the proposed Management Committee meeting for further revision and ratification, and a date for adoption agreed.

20 APPENDICES

- 20.1 Arrears Procedure
- 20.2 Standard Letters
- 20.3 Information on rear of letters
- 20.4 Request to raise action form
- 20.5 LSA Preventing Eviction For Rent Arrears Leaflet