



Policy Name	Rent Arrears Policy
Policy Category	Customer Services
Policy Number	TM006
Officer Responsible	Chief Executive
Application	Lochaber Housing Association
Scottish Housing Regulator Standard	Standards 1 & 2
Equality Impact Assessment Completed	Yes
Date to Management Board	April 2024
Next Review Date	April 2029

1. Introduction and Background

1.1 Lochaber Housing Association Limited is a registered social landlord committed to providing good-quality housing and related services, specifically the management and maintenance of its stock. At the same time, the Association is required to operate as a self-sustaining business, and as such must ensure that it generates sufficient income to cover its expenditure in meeting all of its management and maintenance commitments.

1.2 As rents are the main source of income for the Association, it is imperative that rents are collected in the most effective and expedient way, that the transition to Universal Credit as a means of providing housing costs through welfare benefits is managed effectively, and that the needs of tenants facing rent arrears are understood so that support is provided to assist tenants in avoiding the accrual of rent arrears and the risks associated with excess debt and eviction.

1.3 This policy should be used in conjunction with the Association’s Rent Arrears Procedure which explains, more systematically, the process to be adhered to in relation to the management and recovery of rent arrears.

2. Aims

2.1 The aims of the Association’s policy on Rent Arrears are:

- to ensure that the Association takes all reasonable steps to ensure that rents due to the Association are efficiently and effectively collected.
- to place a high priority on the prevention of arrears, and the management of tenancies that have gone into arrears.
- to ensure that outstanding debts and charges are collected with sensitivity and with a determination not to create further hardship.
- to ensure that all reasonable steps are taken to deal with rent arrears to avoid court action being taken against tenants wherever possible, and for eviction only to be used in the last resort when all other interventions have failed.
- to ensure that all tenants are treated fairly and equally in terms of their and the Association’s obligations under the tenancy agreement, and in terms of the service they receive from us.
- to maximise the Association’s rental income.

3. Legislation, Regulation and Guidance

3.1 The legislative requirements include but not limited to the following:

Housing (Scotland) Act 2001 – the policy complies with the provisions of this Act, including the guidance in relation to the Scottish Secure Tenancy and Short Scottish Secure Tenancy and recovery of possession of a tenancy when a tenant has breached the conditions of their agreement by accruing rent arrears.

Homelessness etc (Scotland) Act 2003 – the Association will comply with the terms of section 11 of the abovementioned Act by giving The Local Authority early notice of households at risk of homelessness due to eviction. In compliance with the legislation, notice will be given when raising proceedings for possession or the service of certain other notices as specified in the Act.

Housing (Scotland) Act 2010 – the policy has been designed to take account of the arrears and eviction related provisions introduced through 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 advice and assistance, agreeing reasonable repayment plans, and revised arrangements for when a Notice of Proceedings can be served.

The policy is also guided by the following legislation:

Equality Act 2010 – the Association within the operation of its Rent Arrears Policy will comply with the Equality Act which protects persons from being discriminated against.

Children and Young People (Scotland) Act 2014 – which sets out a legal framework within which services are meant to work together to support children, young people and families.

Welfare Reform Act 2012 – which introduced a Universal Credit welfare system, including reforms to the way claims are made and administered.

Universal Credit (Claims and Payments)(Scotland) Regulations 2017- section 4 allows claimants in Scotland to request the housing element of the UC to be paid directly to the landlord. S5 of the Regulations sets out a duty for those eligible for this to be notified of such an option.

3.2 The Scottish Government, through the Scottish Social Housing Charter, sets the outcomes it expects Housing Associations to achieve for its residents. In terms of how Associations should develop their approaches to the management of arrears, the Charter states:

- 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. (Outcome11)



- People at risk of losing their homes get advice on preventing homelessness. (Outcome 9)

3.3 The Scottish Federation of Housing Associations (SFHA) has also developed guidelines for the management of arrears. This policy complies with the guidance that:

'RSL governing bodies should be concerned with ensuring that the corporate responsibility to prevent, manage and recover arrears is translated into effective policy and practice.'

4. New Tenancies

4.1 Getting things right at the start of the tenancy can be paramount in avoiding arrears both at the onset of the tenancy and in the future, and aid tenancy sustainment.

4.2 All new tenants should receive full information on the level and composition of rent and any service charges at the beginning of their tenancy, and the tenancy agreement should clearly specify the amount of rent due.

4.3 Rent payments and the various payment methods, entitlement to welfare benefits and how to apply for them, and arrears issues should be discussed at the point of sign-up.

4.4 Tenants should be encouraged to make an application for Universal Credit and Council Tax Reduction in all cases where there is a possibility that they may be entitled to such assistance. If the tenant has any difficulty in making such a claim (at the commencement of the tenancy or at any subsequent point) then the procedure outlined in section 3.3 of the Association's *Rent Arrears Procedure* should be followed.

4.5 All new tenants will be issued with information, detailing their rights and responsibilities, including all matters relevant to paying rent and avoiding arrears.

4.6 All new tenants should be visited as a 'settling-in' visit within 4-6 weeks of the commencement of their tenancy. This enables early identification of any problems, and gives the tenant an opportunity to raise any issues they may wish to be clarified. Further visits may be required as defined by any risk assessment carried out.

5. Preventative Action

5.1 Early and appropriate intervention and action is the keystone to preventing and reclaiming rent arrears.

5.2 The Association will offer all tenants the opportunity to pay rent in ways in which suit their circumstances; these include: by Direct Debit, by All Pay payment cards, by Standing order, by phone, over the internet, and at the Association's offices.



- 5.3 The Association will encourage tenants to manage their rent account using the Housing Online tenant portal 'My Home'.
- 5.4 The Association will inform tenants promptly of any changes to their rent and other charges, and will give a minimum of 28 days' notice of any change.
- 5.5 The Association recognises that tenants in arrears often have multiple debts, and will provide support to tenants in arrears who are experiencing problems with benefits and / or money advice through referrals to specialist advice agencies. Where such a referral has obtained the tenants permission and taken place, the Housing Officer will liaise closely with the tenant and any agency to monitor the situation.
- 5.6 Rent accounts will be monitored closely, and tenants who fall into arrears will be identified and contacted, from the point of the first missed payment, and immediate action will be taken to remedy the problem.
- 5.7 A Statement of tenants' rent accounts will be produced when formally notifying tenants of any arrears on their account.
- 5.8 Staff will be expected to make full use of available data and reporting through the housing management system to understand tenant arrears and any patterns of payment or non-payment behaviour to make early interventions.

6. Control and Recovery of Arrears

- 6.1 The Association will ensure that information about the amount due to the landlord under the tenancy agreement will be broken down to show –
 - (i) the total amount of outstanding rent and of any other outstanding financial obligations of the tenancy;
 - (ii) a description of any charges which the landlord anticipates will be incurred if the arrears of rent or any other financial obligation of the tenancy are not paid.
- 6.2 The Association will take early and appropriate action regarding arrears, a risk assessment will be carried at pre allocation with tenancy monitoring put in place for those at potential risk of arrears and from the point of any first missed payment. This is so that any problems and the reasons for them are identified and investigated at the earliest opportunity, and appropriate solutions sought and implemented to clear any debt - and to prevent rent arrears increasing to a level where it becomes costly both to the tenant and to the Association.
- 6.3 The Association will ensure where a tenancy is likely to result in the recovery of property and arrears that a vulnerability checklist is completed to ensure any arrears action takes into account any disability, impairment and children in the household and should include to seek where appropriate the intervention or guidance of other relevant statutory bodies.
- 6.4 The Association will maintain contact with tenants in arrears at all stages by appropriate means – including letters, phone calls, messaging, video call, e-mail, visits, and office-based interviews.



- 6.5 Where a tenant has fallen into rent arrears, we will contact them immediately once an arrear has been identified to establish the cause of the problem and to take immediate action in line with the *Rent Arrears Procedure*.
- 6.6 Tenants in arrears will be requested to discuss a repayment plan, which will take into account their income and follow an agreed calculation in order to ensure that the maximum *affordable* repayment account is agreed, and to ensure equity for all tenants. When making a repayment agreement, tenants will be clearly advised of the consequences of failure to keep to the arrangement.
- 6.7 At all stages, tenants will be clearly advised that they can access independent advice and support from specialist advice agencies such as the Citizens advice Bureau (CAB) or other local authority support services available.
- 6.8 The action taken by the Association will depend on individual cases, recognising the different circumstances of all the Association's tenants. However, standard letters will also be used as appropriate, and as determined by the Association's *Rent Arrears Procedure*.
- 6.9 There will be regular internal liaison between the Housing Officers, Housing Services Co-ordinator and CEO to discuss what action to take in respect of relevant individual cases which present out-of-the-ordinary circumstances. This is to ensure that individual cases are dealt with fully according to their needs, but also that the interpretation of both policy and procedure remains consistent.
- 6.10 The Association will ensure that clear procedures for staff dealing with rent accounts are in place and followed at all times, with responsibilities plainly detailed.
- 6.11 Rent accounts will be monitored using SDM, and records of all actions and contact will be kept up-to-date on each tenant's account along with relevant file management.

7. Recovering Possession

- 7.1 Where the Association has had, despite its endeavours, no contact with the tenant, or where arrears continually persist for no apparent reason, or where a written repayment agreement has not been adhered to, the Association will serve a Notice of Proceedings for Recovery of Possession on the tenant, and continue to make every attempt to contact the tenant and resolve the situation before the Notice becomes effective. Notice can be served if rent arrears reach an amount equivalent to 2 months' rent, in line with our *Rent Arrears Procedure*.
- 7.2 Where appropriate, we will ensure that all members of the household aged 16 years and over, including members of the tenant's family and their children, ('qualifying occupiers') are aware of legal action we take and that we comply with pre-court action requirements.
- 7.3 If, once the Notice has become effective, the tenant has not established contact and commenced a repayment agreement, or if a repayment agreement has

been made but is not being maintained, the Association will take recovery action in line with the stages highlighted in the Rent Arrears Procedure.

- 7.4 If at any stage the arrears are reducing, or a repayment agreement is being adhered to, action will be suspended and the account will be monitored. If the tenant defaults, action will be resumed.
- 7.5 The Association will take such reasonable steps as may be required of it by legislation, the tenancy agreement and under the social housing charter to help the tenant remedy the situation or to pursue recovery.
- 7.6 Arrears monitoring will take into account, and fulfil, the Pre-Action Requirements (PARS) under sections 14 and 14A of the Housing (Scotland) Act 2001, as amended by section 155 of the Housing (Scotland) Act 2010, where a tenant is taken to court using rent arrears as grounds for possession of the property. The Association will keep consistent records as evidence that the following requirements have been carried out prior to issuing a Notice of Proceedings to a tenant:
- Give clear information about the tenancy agreement and the unpaid rent or other financial obligations.
 - Make reasonable efforts to give help and advice on eligibility for the housing element of Universal Credit and other types of financial assistance.
 - Give information about sources of help and advice with the management of debt.
 - Make reasonable efforts to agree with the tenant a reasonable plan for future payments.
 - The likely result of any application for financial assistance.
 - Other steps the tenant is taking which are likely to result in payment within a reasonable timescale.
 - Whether the tenant is complying with the terms of an agreed plan for future payments.
 - Encourage the tenant to contact the local authority.
- 7.7 The Association will ensure that tenants in arrears are given reasonable opportunity to address their debt with the Association. In the event of non-compliance or persistent breaches in arrangements resulting in consideration for the commencement of further action, the tenant will be offered an opportunity to meet with the Housing Services Co-ordinator who will advise the tenant further on the risk to their tenancy and action the Association may take. An opportunity will be given to the tenant to make a reasonable arrangement. Where any arrangement made to the Housing Services Co-ordinator is defaulted recovery action will be considered.
- 7.8 In the event of continued non-engagement and where legal action is the only reasonable consideration the tenant will be offered a final opportunity to meet with the Housing Services Co-ordinator and the Chief Executive to address the seriousness of their arrears. The Association will seek authority from the Board of Management to enforce the Notice of Proceedings and pursue legal action to seek Decree for Ejection if the arrears are not addressed. Feasible alternatives to eviction will always be sought. The Housing Services Co-



ordinator in discussion with the Chief Executive will authorise one of the following outcomes:

- Where the tenant attends the interview an arrangement can be made to prevent the need for further recovery actions. The CEO will seek to ensure that the tenant understands they must maintain any arrangement to prevent any escalation.
- Any arrangement will be monitored by staff to ensure compliance due this being the final opportunity before recovery action is proposed
- Where the tenant does not attend the interview, does not make a satisfactory agreement to resolve the debt or fails to maintain any final agreement the Housing Services Co-ordinator in discussion with the Chief Executive may instruct the Housing Officer to seek authority to evict from the Board of Management.

7.9 When seeking authorisation from the Board of Management to pursue legal action to recover both the debt and arrears and this is granted. It will be made clear to the tenant that once legal action commences representation will need to be made to the Sheriff Court to offer any further proposals, unless during the legal process where proceedings has been raised the tenant has made substantial payment and an offer that's acceptable to the Association.

7.10 The success of any legal action will depend upon the quality of evidence produced, and it is imperative that the Association is able to demonstrate that it made early and regular contact with the tenant that was appropriate to their circumstances, that vulnerability checks have been completed and that following reasonable intervention from management the matter could not be resolved. A detailed record will be made of every contact, including telephone conversations and arrears interviews.

8. Repossession and Recovery of Debt

8.1 Any eviction by the Association must have sought permission from the Association's Board of Management, and such permission will be sought prior to the commencement of court action as obtaining decree and subsequently serving a charge for removal terminates the tenancy.

8.2 Once permission to evict has been granted, the Association must inform the tenant that the Association will be formally initiating the legal process with our Solicitors for the recovery of the arrears and property. The tenant should be advised to seek independent housing advice and sign posted accordingly to the Councils Homelessness Service.

8.3 The Association will liaise with our solicitors to obtain Decree for both the debt, costs and recovery of the property (ejection). Eviction is the final sanction and will only be used where all other avenues to recover the debt have been tried and failed. Where the Association has raised proceedings and an offer of payment is accepted this will be discussed with the Associations solicitors, this may then be proposed in court for the Sheriff to decide. In such cases we may ask for action to be sisted (put on hold) or for action to be continued. If the tenant fails to maintain the repayments, the court proceedings will be recalled to Court to seek a Decree for Ejection.

- 8.4 Where the tenant clears their account, the Housing Services Co-ordinator following discussion with the Chief Executive may authorise the dismissal of the case.
- 8.5 Where decree has been granted the account will be expected to be cleared.
- 8.6 Once decree is obtained the Association will liaise with our Solicitors to recover the property and the eviction will be carried out by instructing Sheriff Officers to serve a charge for removal. Unless the entire debt is cleared prior to the date for ejection.
- 8.7 When we are notified that a Decree has been granted, the Housing Officer will notify The Highland Council's Housing Options Service and Health and Social Care of the situation by making a formal referral under section 11 of the Homelessness, etc. (Scotland) Act 2003, which places a duty on landlords to notify the relevant local authority when proceedings for possession are raised which would put a household at risk of homelessness. The aim of the referral is to give the abovementioned Services early notice of people at risk of homelessness, so that they are able to take action.

9.0 Tenants with Vulnerability Issues

- 9.1 It is common practice for staff to become aware of the circumstances of potentially vulnerable tenants and their dependants when dealing with arrears cases, and to investigate such matters not only in terms of signposting tenants to sources of help (e.g. internal support or the CAB, etc.), but also in terms of liaising, often extensively, with other professionals involved in the support and care of those individuals.
- 9.2 Any case where it is felt that potential vulnerabilities exist will be assessed through the Associations Safeguarding Policy. Any vulnerabilities or concerns should always be raised within the permission to evict and notified to the board and must include the reasonable actions taken by officers. Including contact with relevant professional(s). Concerns will be presented to the Board in the *Vulnerabilities / issues* section of the Permission to Evict report.
- 9.3 In cases where a fuller investigation is deemed to be needed, either before seeking Permission to Evict, or earlier on in the tenancy if complex problems become apparent through the allocations risk assessment, the Housing Services Co-ordinator, together with the relevant Housing Officer, should carry out a fuller assessment of the situation. Any extra information thus gathered will again be presented in the *Vulnerabilities / issues* section of the Permission to Evict report.
- 9.4 The Associations Safeguarding Policy should be referred to where staff have concerns for the welfare or vulnerability of any adult or child in the household at threat of repossession.

10. Universal Credit – prevention and recovery of arrears

- 10.1 Following the introduction of the Universal Credit 'full service' the Association will ensure that those experiencing difficulty obtain advice and referral to relevant independent advice agencies. The Association are aware of the

impact that this benefit will have on delays in obtaining housing allowance payments from tenants. We will advise tenants making claims for the housing costs element of UC of the Scottish Flexibilities and option of being paid twice-monthly, and encourage and assist claimants, whenever this option is appropriate, to be paid in this way.

- 10.2 We will advise tenants making claims for the housing costs element of UC of the option of having their UC housing element (including rent) paid directly to us, and encourage and assist claimants, whenever this option is appropriate, to pay in this way. However, tenants will be made aware that rent is their responsibility and that Universal Credit in most cases will be paid direct to them with an expectation to ensure rent is paid.
- 10.3 We will encourage and assist tenants to apply for Discretionary Housing Payments, to mitigate the effects of the 'bedroom tax', and the Council Tax Reduction scheme to reduce Council Tax liability.
- 10.4 Advice will be given by staff on sources of financial assistance available to tenants, either directly or by appropriate signposting, or by making direct referrals to relevant organisations and sources of assistance.
- 10.5 For tenants facing crisis or ongoing vulnerability, we will encourage and assist them to apply to the Scottish Welfare Fund for assistance; similarly, with tenants aged 18-21 we will encourage and assist them to apply for appropriate help through the Scottish Welfare Fund.
- 10.6 As the full roll-out of UC progresses, LHA will continue to monitor, as now, individual cases going on to UC, and the level of debt (or credit) resulting through the process. Quarterly Performance Reports on arrears levels will be presented to the Board.
- 10.7 The Housing Services Co-ordinator will monitor the changes to Universal Credit currently taking place, including, but not bound by, the Scottish Flexibilities and the Scottish Government's endeavours to restore housing costs for 18-21 year olds.
- 10.8 LHA will continue to research good practice within the social housing sector with regard to reducing levels of arrears, and implement such practice as is relevant.
- 10.9 Tenants will be advised that Universal Credit and Housing Allowance payments for rent are the responsibility of the tenant and whilst assistance will be provided along with advice and sign posting for those with benefit problems. Rent arrears will be the tenant's responsibility to resolve and the Association will apply to the DWP for arrears direct in the event of arrears being accrued.
- 10.10 Where tenants fail to engage with the Association following the interventions laid out in this policy, authorisation to evict will be made and legal action taken as described in the policy.

11. Former Tenants' Arrears



- 11.1 Lochaber Housing Association expects rent payments to be made, and for former tenants to clear any outstanding rent, or have a repayment agreement in place, at the end of their tenancy.
- 11.2 Wherever possible, the Association will seek to recover arrears due from ex-tenants. Former tenants' arrears will be pursued in accordance with the Association's *Rent Arrears Procedure*, including contacting the former tenant by letter, telephone, text message or e-mail in an attempt to recover the arrears. Where appropriate, the Association will come to a repayment agreement with former tenants to repay arrears. If the tenant defaults on this agreement, the debt will be pursued through legal action.
- 11.3 If the former tenant does not respond, then the Association may refer the matter to our Solicitors, or their details will be sent to either Stirling Park or Network Credit Services in order to commence recovery action. Network Credit Services will confirm to the Association by e-mail on a monthly basis what stage the recovery action is at; they will also confirm whether a search has been closed. Stirling Park will respond on the outcome of any actions direct.
- 11.4 If the case is closed but the Association has a current address for a former tenant, we will commence legal proceedings through Simple Procedure at the Sheriff Court to endeavour to recover the debt owed. If successful, the court will issue a Decree for the amount outstanding and pursue any debt using any legal means to achieve recovery.
- 11.5 The Housing Officer will forward recommendations to the Housing Services Co-ordinator for any write-off that needs to be considered for initial approval. The Chief Executive will then act within delegated powers to authorise write-offs, or submit reports to the Board of Management where further authority is needed.

12 General Data Protection Regulations

- 12.1 The organisation will treat personal data in line with our obligations under the current data protection regulations and our own data protection policy. Information regarding how personal data will be used and the basis for processing personal data is provided in the LHA Group's privacy notices.

This policy can be made available in other formats, for example in large print, audio format or Braille, the document may also be available in other languages, in full or summary form, as appropriate.

13 Equality, Diversity and Inclusion

- 13.1 This policy reflects the Association's commitment to meeting our equality obligations in advancing equality, promoting good relations between protected characteristics, and eliminating discrimination in the way we provide our services. It also aims to reflect our commitment to considering the Equalities and Human Rights impacts of what we do as an RSL.
- 13.2 The Association assesses and reviews where appropriate new and revised policies and procedures, and an Impact Assessment is available to support this policy.