

Report to the Housing Management Sub Committee meeting held on
26th March 2008
For approval

1.0 Subject

Outcome of consultation exercise on the Rent Arrears Policy.

2.0 Summary

The purpose of this report is to consider responses to the consultation exercise on the above policy and to seek formal approval for the document.

The Housing Scotland Act 2001 requires specific consultation to be carried out on policy documents when being formulated or reviewed. The Rent Arrears Policy was last approved in October 2004.

The draft policy with a covering letter and questionnaire was issued to the following throughout February:

- 75 members of the Tenant Panel
- 6 Registered Tenant Organisations (each member of the organisation receiving the paperwork)

A copy of the letter and questionnaire is attached to this report.

3.0 Link to Internal Management Plan

Consultation with members supports the following objectives in the Co-operatives Internal Management Plan:

- 1a) To deliver the service to clients satisfaction and expectations
- 2b) To develop a system for clients to communicate what they want
- 2c) To encourage the realisation of the Co-operative ethos

4.0 The Results of the Consultation

13 Members of the Tenant Panel responded

13 Members of Registered Tenant Organisations responded (at least 5 of the 6 organisations were represented in the responses – there were two RTO questionnaires that were not signed)

Total replies 26

The example questionnaire attached to this report contains the analysis of the 26 replies received.

The following key conclusions were drawn from those responses:

- The vast majority of respondents agreed with the aims of the policy
- The vast majority of respondents agreed with the policy elements
- The vast majority of respondents felt that the policy was well set out, easy to read and understand and free from jargon
- One respondent felt that statements to those on housing benefit should be sent out more often – this is a procedural issue and as such it is not felt that this should be included in the policy – this suggestion will be considered in the next review of the arrears procedure
- One respondent felt that a three rather than a two week rent free period should be given to family clearing the property following the death of a member. It is felt that two weeks rent free is sufficient when balanced against the Co-operatives requirement to keep rent loss and void days to a minimum. It is also our general experience that family members do not object to the offer of two weeks rent free as sufficient time to finalise arrangements. It is therefore felt that two weeks should remain the time stated in the policy.
- One respondent felt that our policies in general are too long and all contain the same elements such as training, equal opportunities etc. A letter has been issued to this member explaining the standard policy format that is used and our general approach to policy work. We did also offer this member the option of not participating in future consultation exercises if they preferred not to do so.
- Two members stated that they felt the term 'violent profits' could be made clearer with a fuller explanation. This paragraph has been reworded to hopefully do this. The violent profits paragraph has also been moved to come after Termination of Tenancy as it is hoped that this flows slightly better and highlights first the ending of a tenancy when Decree is awarded and then violent profits explains that money received must be treated differently to avoid inadvertently creating a new tenancy.

5.0 Financial Implications

There should be no financial implications as a result of this report or the implementation of the policy.

6.0 Risk Assessment

By carrying out consultation the Co-operative adheres to its statutory duties and its legal obligations. It also fulfils the strategic and operational aims of its Internal Management Plan to involve members in policy formulation. There are therefore no operational or strategic risks associated with this report.

7.0 Sustainability

An effective Rent Arrears Policy assists in maximising income and therefore supports the overall financial sustainability of the Co-operative.

8.0 Staffing Issues

Following approval of the Rent Arrears Policy staff training will be required.

9.0 Equal Opportunities

The Policy contains a clear statement on the Co-operatives position in respect of Equal Opportunities.

10.0 Recommendations

It is recommended that the members of the Housing Management Sub Committee agree the following:

- To approve the contents of this report
- That the draft Rent Arrears Policy attached to this report is approved including the changes suggested in 4.0 above.
- That the results of the consultation exercise are made available to all tenant members via a forthcoming Tenants Tribune Newsletter and the Co-operatives Web Site.

Patricia Cahill and Cearda McGregor
Housing Managers
March 2008

Our Ref: CM/PC/tf

Date

Name

Address

Address

Address

Dear

RENT ARREARS POLICY CONSULATION

We are carrying out a consultation exercise, as part of the above Policy review, to get the views of our Tenant Panel members and Registered Tenant Organisations. We wish to know what you think about this document and attach a copy of the Policy for your consideration.

The Policy Document

The Rent Arrears Policy was last reviewed in October 2004. In reviewing the Policy we have consulted several documents and good practice guidance. The key documents used were Communities Scotland Performance Standards and the Scottish Federation of Housing Associations Raising Standards.

The Changes

There are some changes and additions to the document which are listed below, however we would also welcome your feedback on the layout, presentation and clarity of the policy document.

The layout

The Co-operative now uses a standard layout for all of its policies. The layout of the Rent Arrears policy has been changed to reflect that.

Emphasis on homeless prevention and support for members

The wording describing how we want to support and help members who are in rent arrears has been strengthened. We have also included information on the Co-operatives involvement in two support projects (ASSIST and SMART) that can help our members in arrears.

Monitoring, reporting and target setting

This information has been updated to reflect current reporting and target setting practices.

How to Respond

You will find enclosed a reply sheet to assist you on commenting on the document and a prepaid envelope for ease of return. To ensure that we accurately take account of everyone's views with regard to improving this policy document we have asked you to provide your name, address and phone number so that we may contact you to discuss any issues you raise.

Provision of this information is optional and you do not need to give us these details if you prefer not to.

We will also be happy to discuss your comments verbally if you prefer to do this and our contact details are below.

If you would like the policy document to be sent to you in another format, such as large type or another language, please let us know and we can arrange this for you.

We would be grateful if you could respond to us either by questionnaire or verbally by 11th March 2008.

What happens next

After 11th March 2008, we will collate the replies and consider if these can be incorporated into the policy document. A report on replies received will be presented to the Housing Management Sub Committee who is responsible for recommending approval of the document to the Committee of Management. The report will be included on the Co-operative's website and we will also report on the outcomes of this exercise to members who responded to the consultation exercise and in a future newsletter that will be issued to all members.

How to contact us

I or my job share partner Pat Cahill, Housing Managers are available to discuss any aspect of the Rent Arrear Policy on 628400 between 10.00 a.m. and 3.00 p.m. Monday to Friday. If we are not available please leave your telephone number and we will contact you.

Thank you for taking the time to support your Landlord (Tenants First Housing Co-operative) and participating in this policy consultation process.

Yours sincerely



Cearda McGregor
Housing Manager
Encs

**Tenants First Housing Co-operative
Member Consultation on the Rent Arrears Policy
Responses due by 11th March 2008**

Please answer the questions below after reading the Policy.

1. Do you agree with **all** aspects of the aims of the Policy on Page 2?

YES: 17

NO: 0

NO ANSWER: 9

2. We have identified the central elements of the Policy as follows. Please indicate whether you agree with the inclusion of each element below.

POLICY ELEMENT			
Key Principles for Rent Arrears	Yes	No	No Answer
Prevention	25	0	1
Rent Arrears Recovery	24	1	1
Homeless Prevention and Support for Members	25	0	1
Recovery of Property	25	0	1
The Court Hearing	25	0	1
Decree for Recovery of Heritable Property	25	0	1
Violent Profits	23	0	3
Termination of tenancy	25	0	1
Committee and Board Members who have arrears	25	0	1
6.0 Monitoring, Reporting & Targets	24	0	2

3. Do you think there is anything we could add to this list?

YES: 2

NO: 21

NO ANSWER: 3

If YES, please state what these are.

- Statements sent out to people on benefit more often as misunderstanding the housing benefit system is easy.

.....

- This Policy given tenants every help and opportunity to clear rent arrears

4. Do you agree that the Policy should be reviewed every 3 years
YES: 24
NO: 1
NO ANSWER: 1

If NO, please state why

.....

5. What do you think of the way we have written the Policy?

	Yes	No	No Answer
Is it clearly set out?	24	0	2
Did you find it easy to read?	24	0	2
Did you find it easy to understand?	24	0	2
Is it free from "jargon" or technical terms?	22	2	2

If NO, please state why

- Some pieces a bit complicated for older people
- Jargon a bit hard

.....

6. Do you wish to make any other comments about the Policy?

There were a few areas that were not clear to me at first but I asked a member of staff for clarification and am now happy with them.

Under Rent Arrears Recovery (deceased member) two weeks rent free seems a bit short – suggest at least three. The first week is taken up with the funeral.

I do not understand 'violent profits' maybe it could be made clearer with a fuller explanation **(this comment was made by two members)**

I think these policies are too longwinded and elderly people will not bother to read them. There seems to be a lot of repetition e.g. training, equal opportunities, monitoring crops us continually. Aims, objectives – purpose, to me these words have the same meaning.

Well thought out and concisely phrased

Name:.....

Address/Organisation:.....

.....

Thank you for taking the time to participate in the Rent Arrears Policy consultation and complete and return this questionnaire.

If you prefer to respond verbally to this questionnaire please telephone Cearda McGregor or Pat Cahill, Housing Managers on 01224 628418.

Tenants First Housing Co-operative

Rent Arrears Policy

Approved:

Date of Next Review:

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1.0 Aims

Tenants First Housing Co-operative believes that effective and efficient management of rent arrears is vital to the successful functioning of the Co-operative. It understands that maximising the rental income (including service charges) and preventing rent arrears accruing at the earliest opportunity will ensure that the Co-operative's commitments are met. In cases where rent arrears do accrue, the Co-operative understands the importance in taking early action so that these are kept to a minimum and reduced through a fair, responsive and when necessary, firm approach.

Through the Rent Arrears Policy, the Co-operative will aim to:

- have a performance culture where the prevention and pursuit of rent arrears is given a high priority
- enforce its commitment to homeless prevention by ensuring proper support and guidance is given to members in arrears on their rights and options so that their rent arrears are cleared without threat of losing their home

2.0 Objectives

The Rent Arrears policy links with the following objectives contained in the Co-operatives Internal Management Plan:

- 1) To provide, manage and maintain top quality affordable housing
- 4) To manage and develop the business in an innovative way, providing high standards and maintaining financial viability

3.0 Rent Arrears

Prevention

The Co-operative encourages a payment culture by motivating members to pay their rent on the first day of each month or in advance. A wide range of rent collection and payment options are available to make this possible. Obligations relating to timely rent payments shall be reinforced, clause by clause, when members sign their Scottish Secure Tenancy Agreement and again when 'follow up' visits are carried out. Where appropriate, advice will be offered to members to ensure that their income is maximised by claiming their full entitlement to housing and other benefit.

The Co-operative firmly believes that prevention is the key to rent arrears control and is committed to using proactive methods that will have a preventative effect. An example of a proactive method is the regular checks throughout each month of all rent accounts. These proactive methods also link to the Co-operative's belief that early identification of rent arrears is essential if they are to be managed effectively.

Rent Arrears Recovery

The Co-operative is committed to the recovery of rent arrears and will pursue negotiations with members and any other relevant agencies to ensure that all rent arrears owed is repaid in full. Account will be taken of situations where members are facing exceptional and genuine difficulties e.g. non-payment of housing benefit due to local authority error or failure to pay; the demise of an immediate family member; illness and divorce. A variety of other available options and methods will be used for recovery of rent arrears that include deduction from housing benefit paid, to cover overpayments of housing benefit that are classed as rent arrears, wage arrestment and recovery of possession.

Where members have static rent arrears, (those members who have made no payment toward rent arrears for at least three months), or other static debt such as legal fees and re-chargeable repairs, and where the level of debt does not warrant legal action, full clearance of the debt will be vigorously pursued. For static debt exceeding £50.00, consideration will be given to pursuing repayment through the small claims court, up to a maximum of £3000.00. It is not cost effect to pursue static debt less than £50.00 through Court.

Where a member has deceased and the tenancy is to end the Co-operative will provide a rent free period of two weeks to assist family members in having time to clear the property whilst not incurring rent payments.

Homeless prevention and support for Members

The Co-operative will aim to prevent homelessness by supporting its members in rent arrears. Members who are experiencing financial difficulties will have access to professional housing management advice with support and guidance being offered to ensure repayment agreements are affordable and that there is optimum use of the rent arrears direct option. Co-operative staff will also ensure referral to appropriate specialist support agencies if appropriate and where the member agrees to do so. The Co-operative works in partnership with other registered social landlords in two projects that provide individual tailored support to members having difficulty in sustaining their tenancies including financial difficulties. These projects are ASSIST and SMART. The Co-operative will ensure that it does everything it can to encourage members to accept assistance from these projects or other alternatives such as the Citizens Advice Bureau.

Recovery of Property

The Co-operative will only consider pursuing legal action against a member to repossess their tenancy after all efforts have failed to motivate them to reduce their rent arrears, and all other options to recover the debt have been exhausted. No legal action will be commenced without formal approval being given by at least two members of the Housing Management Sub Committee.

The Court Hearing

Once a decision has been taken to pursue the recovery of rent arrears and tenancy, the Co-operative will decide whether it is appropriate to seek Decree for eviction, to seek Decree for expenses or to have the case sisted (put on hold). This decision will depend on whether a member is making payments to reduce their rent arrears, or they have paid their rent arrears off in full between the date of the case being submitted to Court and the date of the Court hearing.

There will be occasions when a member's Solicitor or agent will ask for the case to be 'continued' on the basis that the member has entered into an agreement to repay their rent arrears. In these circumstances, the case can be continued for a specified number of weeks to monitor the repayments. If the repayment agreement is broken, the case will be re-called in court to seek Decree for eviction.

Decree for Recovery of Heritable Property

In cases where a Sheriff has awarded a Decree for Recovery of Heritable Property and a member is facing eviction, advice will be given to members to seek assistance from the Homeless Section of the relevant local authority and other appropriate agencies. In most circumstances, the member will be given the final opportunity to pay the debt (including rechargeable repairs, legal fees and expenses (where awarded) and any other associated costs) in full to avoid the eviction being carried out and thus ensuring that they do not lose their home.

It is recognised that there is a risk that wrongful action could be taken when pursuing recovery of rent arrears. Associated procedures are in place to minimise this risk, which include the requirement to have written authorisation from the Committee of Management members before a Decree for eviction can be used.

Termination of Tenancy

A member's tenancy is ended when a Decree for Recovery of Heritable Property is awarded. Their membership of the Co-operative also ends seven days after the tenancy is ended. If a member pays the debt in full and the Decree is not used the member will need new membership approval (unless Scottish Secure Tenancy is re-signed within seven days of tenancy ending), and will be required to sign a new Scottish Secure Tenancy Agreement.

Violent Profits

Where a member has had a decree awarded against them their tenancy officially comes to an end. It is therefore essential that any payments made towards the outstanding debt are not recorded in the rent account, but kept separately and classed as 'violent profit'. 'Violent profit' is a legal term used to ensure that a new tenancy is not created as a result of receiving money from a former member towards clearing their debt.

Committee and Board Members who have Rent Arrears

A member cannot remain or be re-elected as a Committee or Board member on any of the Co-operative's Committees if they are involved in any legal proceedings concerning their tenancy or involved in legal proceedings that raise a conflict of interest with the Co-operative. Co-optees, who are not members, cannot remain or be re-elected on any the Co-operative's Committees if they are involved in any legal proceedings which raise a conflict of interest with the Co-operative.

4.0 Training

The Co-operative through its Internal Management Plan is committed to training and developing staff and committee members to their full potential in order to deliver a high quality of service in all areas of its business to tenant members and the public.

5.0 Equal Opportunities

The Co-operative will ensure that in implementing its Rent Arrears Policy it will not unfairly discriminate against any individual, household or group on the grounds of sex or marital status, on race grounds, or on the grounds of disability, age, sexual orientation, language or social origin, other personal attributes, including beliefs or opinions such as religious beliefs or political opinions.

6.0 Monitoring, Reporting and Performance Targets

The Co-operative through its Internal Management Plan is committed to continuous improvement in service delivery and standards, and understands that effective target setting, monitoring and reporting is inherent in the process of evaluating and reviewing its performance.

Monitoring and Reporting

The Co-operative's daily time recording system will be used by staff to record time spent on rent arrears cases.

The Housing Manager and Housing Supervisor will be responsible for giving guidance and support to staff when dealing with members who are in serious rent arrears and for those facing eviction. Serious rent arrears cases will be monitored on a monthly basis with the Rent Arrears Officer to ensure the fullest possible investigations and action has been taken to secure repayment.

Quarterly performance reports will be submitted to the Housing Management Sub-Committee monitoring the following (against performance targets where applicable):

- Number and percentage of members in rent arrears
- The percentage of rent arrears owed in relation to the Annual Rent Receivable both as a gross and net figure
- Number of Notice of Proceedings issued in relation to rent arrears

- Number of cases over £400, the number of those with agreements and the number of agreements broken
- Number of cases to court
- Number of cases sisted
- Number of cases with Decrees for expenses only
- Number of decrees for eviction awarded
- Number of decrees for eviction recalled
- Number of evictions completed
- Number of abandonments before eviction
- Number of cases referred to ASSIST
- Number of cases referred to SMART

An annual report analysing Evictions will be prepared by the Housing Manager and submitted to the Housing Management Sub Committee.

Targets

The Co-operative will set strategic targets for Rent Arrears annually each April taking into account past performance and benchmarking data from other registered social landlords. The targets and any subsequent changes will be reported to the Housing Management Sub Committee for approval. Performance against the targets will also reported back to the Housing Management Sub Committee.

7.0 Review

This policy will be approved by the Committee of Management and is reviewed in consultation with staff and members. It will be reviewed every three years unless amendment is prompted by a change in legislation, or monitoring and reporting reveals that a change in policy is required sooner.

8.0 Legal Framework

Housing (Scotland) Act 2001

Schedule 7, Housing (Scotland) Act 2001

Data Protection Act 1998

Matrimonial Homes (Family Protection Scotland) Act 1981

Industrial and Provident Societies Act 1985

Disability Discrimination Act 1995

Race Relations Act 1976, Amendment Act 2000 and Amendment Regulation 2003

Sex Discrimination Acts 1976 and 1985

Human Rights Act 1998

9.0 References

Communities Scotland Performance Standards and self assessment material
SFHA Raising Standards in Housing

10.0 Related policies and documents

Scottish Secure Tenancy Agreement

Internal Management Plan

Allocations policy

Equal Opportunities policy

Former Tenants Arrears policy

Service Charge policy

Budget Setting

Cash Flow Projections

Rent Arrears procedure