

**MORAY HOUSING PARTNERSHIP
Rent Arrears Policy**

Date Agreed

Under Review

1. Scope of Policy

- 1.1 This policy describes the activities and responsibilities involved where the rent accounts of both current and former tenants are in arrears. The term “rent arrears” applies to both rent and service charges.
- 1.2 Under their tenancy agreement, tenants are legally obliged to make payment of rent. Failure to make such payment could result in a tenant losing their home.
- 1.3 Moray Housing Partnership aims to minimise loss of rental income by prompt, effective recovery of rent arrears. In doing this the Partnership recognises that arrears arise for different reasons and that recovery procedures should therefore be flexible and responsive to individual circumstances.
- 1.4 Moray Housing Partnership will ensure the promotion of equal opportunities by publishing information and documentation in different languages and other formats such as large print, audio tape and braille, as required.
- 1.5 Moray Housing Partnership will ensure that no individual is discriminated against on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin, or other personal attributes, including beliefs, or opinions, such as religious beliefs or political opinions.

2. Context

- 2.1 This Rent Arrears Policy is set in the context of the Performance Standards for social landlords and homelessness functions document published jointly in November 2001 by Communities Scotland COSLA and the SFHA. The Standards are organised into 20 Guiding Standards and 33 Activity Standards
- 2.2 Section 79 of the Housing (Scotland) Act 2001 provides Scottish Ministers with the power to set standards and the publication of the Performance Standards document forms the key reference point for Communities Scotland’s Single Regulatory Framework.
- 2.3 The Standards came into effect in April 2002 and are organised into 20 Guidance Standards and 33 Activity Standards.
- 2.4 The principles of this Policy take note of and reflect the Guiding Standards that underpin the principles of service delivery.
- 2.5 The objectives of this policy reflect the key functional areas that Communities Scotland will regulate and inspect and the Policy is therefore set in the context of Activity Standard, **Arrears (AS1.8)**.

“ We act to prevent arrears of rent and service charges building up. We recover any arrears fairly and effectively.”

3. Principles and Objectives

3.1 The principles of this policy are:

- that Moray Housing Partnership's Arrears Service is fair, equitable and easily understood by all stakeholders.
- that importance for both the Partnership and tenants of preventing arrears arising in the first place is recognised.
- that the Policy recognises the need to respond promptly and purposefully to non-payment of rent and the importance of establishing personal contact at an early stage where arrears persist.
- that Moray Housing Partnership will work together with other agencies including The Moray Council and advice agencies to ensure that all tenants are aware of their rights and entitlements to financial assistance and where appropriate Service Level Agreements will be in place to ensure efficient and effective joint working.
- That legal proceedings should be used only as a last resort; where used, legal procedures should be effective, be at minimum cost to the Partnership and tenant and as far as possible be under the direct control of the Partnership.
- that appropriate information systems are maintained to enable both staff and Committee to monitor the effectiveness of the Arrears Policy.
- that detailed procedures are in place to facilitate an efficient and effective service.
- that staff are trained to ensure that they are equipped to carry out the delivery of the service.
- that communication with tenants is in "plain language" and clearly states the appropriate member of staff who can deal with queries.

3.2 The objectives of this policy are:

To minimise the level of rent arrears in a sensitive but effective manner.

To offer early appropriate professional support and guidance to tenants to reduce rent arrears.

To monitor levels of rent arrears and to ensure that early intervention mechanisms are in place which prevent rent arrears arising.

To take appropriate action in accordance with the level of rent arrears.

To ensure that at the start of their tenancy, tenants are fully informed of where and how they can pay their rent, and that the full costs of the property including service charges and council tax are explained.

To ensure that at the start of their tenancy, tenants are advised of their payment of rent responsibilities, benefits entitlement and are helped in claiming their entitlement where appropriate.

4. Legal Framework

4.1 Moray Housing Partnership will ensure that their Rent Arrears Policy meets with legislative and good practice requirements in minimising rent arrears. This includes:

Tenancy Agreement

Moray Housing Partnership will enforce the terms and conditions of their Scottish Secure Tenancy Agreement, specifically **section 1.5**

“ The rent is £.... every calendar month payable in advance by you on or before the first day of each calendar month”

Housing (Scotland) Act 2001

Where legal action is taken to recover arrears, Moray Housing Partnership will comply with the rules as specified in the Housing (Scotland) Act 2001.

Data Protection Act 1998 and Freedom of Information Act (Scotland) 2002

For the purpose of providing a housing service the Moray Housing Partnership holds personal information about its tenants. Moray Housing Partnership recognise that they are responsible for maintaining tenants' privacy and that the information cannot be shared with other agencies unless they are legally required to do so.

Individual tenants are entitled to know what personal information is held and to have an opportunity to correct any inaccuracies in that information.

Matrimonial Homes (Family Protection) (Scotland) Act 1981.

Moray Housing Partnership will comply with the terms of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 when providing occupancy rights to people whose home is at risk due to eviction.

Debt Arrangement and Attachment (Scotland) Act 2002

Moray Housing Partnership will comply with the Debt Arrangement and Attachment (Scotland) Act 2002. Section 4 (2) of this legislation which implies that whilst a landlord can raise proceedings they cannot commence with “diligence” to enforce payment. They can however still raise an action for recovery of arrears but the action may be sisted to enable payments of rent and arrears from the Debt Payment Programme. This protects the landlord's position in the event that payments are missed in terms of the Debt Payment Scheme.

5 Tenants' Responsibilities

- 5.1 The term 'tenant' includes sole and any joint tenants.
- 5.2 If two or more people have signed the Tenancy Agreement, they are jointly and severally liable for the payment of rent. This means that each person is fully responsible for the payment of rent and any arrears of rent.
- 5.3 Tenants have an obligation under the Terms and Conditions of their Tenancy Agreement to pay weekly rent due every month, in advance on or before the first day of each calendar month.
- 5.4 Tenants have a responsibility to notify the Moray Housing Partnership of any change that may affect their ability to pay their rent.
- 5.5 Tenants can choose to pay their rent by one of the following methods: -
 - Cash or cheque
 - Standing Order
 - Debit Card
 - Post Office Giro

6. Prevention of Rent Arrears

- 6.1 At the start of a tenancy, Moray Housing Partnership will make every effort to ensure that the tenant is informed of all costs associated with their tenancy. Tenants will be

encouraged to complete application forms for Housing Benefit when signing a tenancy agreement.

- 6.2 Tenants will be offered help and advice on money management and welfare benefits, including an assessment of their entitlement to Housing Benefit and Income Support, where appropriate.
- 6.3 Where tenants experience difficulty with the completion of a Benefits Application Form, assistance will be provided by housing staff, or a referral to the Housing Benefits or Welfare Benefit sections of the Council will be arranged.
- 6.4 Moray Housing Partnership will consult with tenants regarding any change to the rent payable and will give tenants 28 days written notice of any increase in rent.

7. Assessment, Support and Liaison with Other Agencies

- 7.1 Moray Housing Partnership will offer a detailed financial assessment to all tenants when it is identified that their rent account is in arrears in order to assist in the management of their tenancy and ensure that rent is paid. (Para 9.4)
- 7.2 During the assessment, the tenant in arrears will be asked to identify possible sources of support. These may include: -
 - Family/household members
 - Social Work
 - Trading Standards Section
 - Housing Benefit
 - Welfare Benefits
 - Homelessness Services
 - Dept of Work and Pensions
 - Moray Advocacy Service
 - Citizens Advice Bureau and
 - Any other appropriate Voluntary Agency

8. Rent Arrears Recovery

- 8.1 Rent arrears recovery will be based on a staged escalation process, up to and including repossession for non-payment of rent.
- 8.2 The process will be based on a preventative approach that seeks to maximise tenants' entitlement to benefits and secure regular payments. Emphasis will be placed on intensive management and personal contact by the Housing Officer whilst arrears are at a relatively low level, in order to prevent the escalation of arrears.
- 8.3 Moray Housing Partnership will consider legal action to recover rent arrears where management actions prove ineffective.

9. Early Action

- 9.1 Moray Housing Partnership will ensure that there is early intervention in rent arrears before a debt becomes unmanageable.
- 9.2 Housing staff will monitor rent accounts on a monthly basis.
- 9.3 Arrears control and recovery action will be activated as soon as a rent account falls into arrears.

- 9.4 Detailed procedures for rent control and arrears action ensure that each case is regularly monitored and the necessary checks made at each stage of the control and recovery action. Tenants who regularly go into arrears will be contacted and a financial assessment will be completed.
- 9.5 Moray Housing Partnership will maintain a comprehensive record of all action taken and contact with a tenant in arrears.
- 9.6 Moray Housing Partnership will provide tenants in arrears with clearly written arrears letters which detail the current balance on an account, what action they need to take with appropriate phone numbers to get assistance.
- 9.7 Moray Housing Partnership will provide tenants in arrears with a financial assessment of their circumstances with a view to making realistic and sustainable arrangements to pay off the arrears.
- 9.8 Moray Housing Partnership will: -
- Give priority to establishing personal contact with tenants and members of their family over 16 years of age throughout the debt recovery process;
 - Enable an appropriate assessment of their needs and circumstances to inform the delivery of support if required;
 - Enable money management advice and assistance;
 - Provide effective controls on the recovery of debts, with legal action being taken only when all other means of recovery of rent arrears have been exhausted; and
 - Encourage tenants to advise their Housing Officer of any change in their circumstances that may affect their ability to pay rent.

10. Serious/Persistent Arrears Action

- 10.1 Serious arrears action will commence when arrears continue to rise, or direct contact with the tenant has failed. This may include initial stages of raising legal proceedings against the tenancy.
- 10.2 Moray Housing Partnership will write and inform the tenant that if the payment of rent and arrears are not made on a regular basis, a Notice of Proceedings for Recovery of Possession will be served and that legal action may be taken.
- 10.3 Emphasis will continue on personal contact and ensuring that family members where appropriate are involved.

11. Repayment Arrangements

- 11.1 In cases where the tenant cannot clear the arrears in a single payment, Moray Housing Partnership will agree an affordable payment to reduce the arrears in realistic and sustained instalments over a specific period of time. Any repayment agreement will be based upon a detailed assessment of the tenant's ability to pay.
- 11.2 A written agreement will be made with the tenant, where possible, on how to manage and reduce their rent arrears. This agreement should include the level of current arrears, the tenant's ability to pay, the size and frequency of arrears repayments, the repayment dates and the method of making future rent payments.
- 11.3 Once the tenant has made an agreement to repay arrears, the rent account of the tenant will continue to be monitored. If payments continue to be missed, further action will be taken.

12. Legal Action

- 12.1 Legal action is the last stage in the rent arrears process. The decision to request that an action for recovery of possession of the property and payment of arrears of rent be raised will only be taken when all other means of recovery of rent arrears have been exhausted. The court may make either (or both) an order for recovery of possession or an order for repayment. An award of court expenses will be sought.
- 12.2 Moray Housing Partnership must serve the tenant with a Notice of Proceedings for Recovery of Possession at least 28 days before court proceedings will commence. Before serving a Notice of Proceedings for Recovery of Possession Moray Housing Partnership will make reasonable inquiries to establish, so far as is reasonably practical, whether there are any qualifying occupiers in the house. The Notice of Proceedings for Recovery of Possession must also be served on all qualifying occupiers of the house. A qualifying occupier is a person who occupies the house as his/her only or principal home and who is:
- a member of the tenant's family aged at least 16; or
 - a person to whom the tenant has, with the landlord's consent, assigned, sublet or otherwise given up possession of the house; or
 - a person who is a lodger and the landlord has given consent.
- 12.3 Tenants in rent arrears will be informed that any qualifying occupiers will be notified of the rent arrears and may at the tenant's discretion be invited to contribute to the financial risk assessment process.
- 12.4 Tenants will be kept informed and fully involved of the legal process involved in all stages of legal action. Legal action may include a payment decree or ejection decree. In all cases, Moray Housing Partnership will seek recovery of expenses. Expenses may be awarded where the arrears have been repaid. Where appropriate, Moray Housing Partnership will refer the tenant to suitable agencies to provide advice or assist in representation at court hearings.
- 12.5 In the event that a tenant has made an application for a Debt Payment Programme under the Debt Arrangement Scheme the Moray Housing Partnership will continue to raise proceedings. However, the Moray Housing Partnership will not commence "diligence" to enforce the payment of rent arrears.

13. Former Tenant Arrears

- 13.1 Former Tenant Arrears refers to tenants who have terminated a tenancy and have outstanding rent arrears related to the property vacated.
- 13.2 All tenants, when terminating their tenancy, are encouraged to pay any outstanding arrears of rent and will be advised of the implications involved if rent arrears are not paid in full.
- 13.3 Arrears control and recovery action will be activated when the status of the tenancy changes to former tenant.
- 13.4 Former tenants in arrears will be encouraged to agree a repayment plan that is affordable and sustainable.
- 13.5 Detailed procedures for arrears recovery ensure that each case will be regularly monitored and appropriate action taken.
- 13.6 Where attempts to recover arrears by letter have failed, or the former tenant's whereabouts are unknown, the debt will be referred to the Debt Collection Agency.

- 13.7 Legal action to recover the arrears will be taken in cases where, an assessment of the former tenant's financial circumstances, indicate that such action would be appropriate.
- 13.8 Where the arrears are in respect of a deceased tenant action will be limited to contacting the next of kin or executor to claim against the estate.
- 13.9 Where a debt is uneconomic to pursue or there is no prospect of recovery, the debt will be reported to Moray Housing Partnership's Management Committee for approval to write off the debt.

14. Lock-up Garage Rent Arrears

- 14.1 All Lock-up garage rents are payable 1 month in advance. Therefore when a tenant misses a monthly payment they will be notified by letter requesting that the payment is made.
- 14.2 Tenants will be encouraged to pay the full amount due, however in certain circumstances an agreement to pay the arrear off over a short period of time may be made.
- 14.3 In the event that attempts to recover rent arrears fail, Moray Housing Partnership will take action to terminate the lease and recover the lock-up garage.

15. Complaints and Review Process

- 15.1 The Moray Housing Partnership's Complaints Procedure is available to any tenant who is not satisfied with the way in which their case has been dealt with. Details of the Complaints Procedure are included in the Tenants Handbook and are available on request from the Partnership's office in Elgin.

16. Performance Monitoring

- 16.1 Moray Housing Partnership will monitor performance on rent arrears using both statutory and local performance indicators as follows:

Statutory Performance Indicators

- Current tenant arrears as a percentage of the net rent due in the financial year
- The percentage of current tenants owing more than 13 weeks rent excluding those owing less than £250

Local Indicators

- The total amount of current tenant arrears
- Current tenant arrears by band showing number of accounts and total arrears due for each band
- Total former tenant arrears due
- Number of tenants evicted due to rent arrears

- 16.2 Targets for current rent arrears as a percentage of net rent due in the financial year will be agreed annually at Moray Housing Partnership's Management Committee.
- 16.3 The performance indicators detailed in paragraph 16.1 will be reported quarterly to Moray Housing Partnership's Audit and Finance Committee.

- 16.4 This policy will be reviewed annually to ensure it remains efficient and effective and any amendments made will be subject to consultation with tenants.