



## Cloch Housing Association

# Rent Arrears

<b>Policy Name</b>	Rent Arrears (Current & Former Tenants)
<b>Policy Category</b>	Housing Management
<b>Policy Number</b>	026
<b>Date Adopted</b>	01/10/1998
<b>Last Review</b>	27/08/19 (addition on 23/02/21)
<b>This Review</b>	April 2023
<b>Next Review</b>	August 2025
<b>Equalities Impact Assessment Required</b>	To be carried out retrospectively
<b>Consultation</b>	Internal
<b>Need for Procedure</b>	Yes

## **1 INTRODUCTION & AIMS**

- 1.1 The Association has a duty to maximise its income by preventing arrears and service charges building up and by recovering any arrears fairly and effectively.
- 1.2 This policy sets out the principles that the Association conforms to in its aim to minimise arrears.
- 1.3 Where this policy document refers to rent payments and rent charges it should be considered that this includes Occupancy Charges & Service Charges where these are applicable.

## **2 SCOPE AND PRINCIPLES**

- 2.1 Rental income accounts for a significant proportion of Cloch's total income and as such maximising the organisation's income through the prevention and recovery of rent arrears is essential to ensure that we can continue to provide good quality services for our customers.
- 2.2 Cloch's overall approach to maximising income through rent is:
  - To make it as easy as possible for tenants to pay their rent by providing a range of payment methods that meet their needs
  - To prevent tenants from falling into arrears with their rent by allocating properties appropriately and providing reasonable support and assistance to those customers at risk of not paying their rent.
  - To promote a rent payment culture and attempt to prevent arrears accruing
- 2.3 Where this preventative approach fails, the Association will:
  - Take action quickly and decisively to enforce the payment of rent in accordance with the tenancy agreement, including the use of court action and will ultimately seek to end a tenancy.

## **3 RISK MANAGEMENT**

- 3.1 Cloch's Rent Arrears Policy provides a framework for managing arrears efficiently and effectively. Our Business Plan depends significantly upon generating revenue from the properties that we rent. We therefore seek to mitigate against business risk through minimising our arrears. Managing arrears in an efficient, effective, and economic manner should minimise our loss of income through non-payment of sums due.

## **4 LEGAL & REGULATORY CONTEXT**

4.1 This policy will comply with all relevant legislation and best practice guidance including:

- The Housing (Scotland) Act 2001 & 2010;
- Debtor's (Scotland) Act 1987;
- Bankruptcy and Diligence etc. (Scotland) Act 2007;
- Statutory Instrument 2012 No 127 Pre-Action Requirements Order 2012.
- Welfare Reform Act 2012; and
- The Scottish Social Housing Charter and relevant Charter indicators.
- The Data Protection Act 2018 & General Data Protection Regulation (GDPR)
- Scottish Secure Tenancy Agreement, Short Scottish Secure Tenancy Agreement and Occupancy Agreement – Cloch's Tenancy and Occupancy Agreements contain specific conditions in relation to the payment of rent and other tenancy related charges. Non-payment of these charges represents a breach of the tenancy or occupancy conditions
- The Equality Act 2010

## **5 RESPONSIBILITY**

5.1 The Senior Housing Officer has responsibility for key aspects of the day to day service delivery with delegation of specific tasks to appropriate staff. The Head of Housing Services has responsibility for overseeing the implementation of the Rent Arrears Policy and will report regularly to the Director on key performance indicators.

## **6 STAFF TRAINING**

6.1 Cloch Housing Association recognises that it is extremely important to arrears prevention that the resourcing and training of staff is adequate to meet all the needs of its tenants and owners. The Association is committed to making available to staff access to relevant training relating to effective prevention and control of rent arrears; Welfare Benefits; Debt Counselling, Equalities etc.

## **7 PREVENTING RENT ARREARS**

7.1 The Association recognises that the key to arrears management is prevention. To help customers manage their accounts, customers can view their account through the Association's website, or have statements sent to them at any time upon request.

7.2 The Association believes the culture of payment is set during the early contact with prospective tenants, using a variety of tools, for example:

- Actively assisting tenants to access available help paying their rent, particularly at the start of a tenancy
- Referrals to agencies who can assist with cost of living increases, e.g., energy advice
- Personal contact by phone, letters, and visit, which may require to be out of normal working hours
- Liaising with Housing Benefit/DWP with permission from the customer.
- Signposting to advocacy services / money advice agencies and arranging income maximisation checks where appropriate.
- Analysis of residents most at risk and vulnerability checks; and
- The use of IT systems.

7.3 The Association has made the process of payment as user friendly as possible and will seek to maximise payment methods, in line with best practice, technological development and tenant consultation. These are outlined on our website and are provided at the start of the tenancy, they can be sent at any time upon request.

7.4 Rent payment options will be discussed with applicants and payment method selected at allocation visits and confirmed at accompanied viewing; Direct Debit will be promoted amongst all tenants where appropriate. All front-line staff at Cloch are trained to accept rent payments or set up Direct Debits.

7.5 It is expected that applicants actively seeking housing will be prepared to make rental payments in the event of accepting a tenancy from the Association. Therefore, new tenants must pay their rent in advance at the point of signing for their tenancy. All rent will be paid in advance on or before the 1<sup>st</sup> of any given month.

7.6 In exceptional circumstances, an applicant will be allowed to pay a reduced amount or pay their rent within the first week of signing, if there are legitimate reasons for doing so – wage patterns etc. This will be at the Senior Housing Officer/ Head of Housing Services discretion.

7.7 Where tenants do fall into arrears with their rent, we will look to prevent formal action being taken against their tenancy by intervening at an early stage. We will do this by providing tenants with the information, support, and advice they need to maximise their income. Where we are unable to assist tenants, we will signpost to appropriate external agencies.

## **8 HOUSING BENEFIT / UNIVERSAL CREDIT**

8.1 The Association recognises that many of its customers are dependent upon benefits (including Housing Benefit (HB) and Universal Credit (UC)) to pay their charges. Benefit claims are the responsibility of the tenant, and we expect tenants to liaise with Housing Benefit/The Department of Work and Pensions (DWP) and ensure their rent is paid in advance, in full to the Association.

8.2 Where Housing Benefit or Universal Credit is in payment tenants will be expected to pay their rent in advance in accordance with their tenancy agreement.

8.3 Where arrears are accruing and attempts to encourage the tenant to manage their rent payments are unsuccessful, we will apply for Payment Direct to Landlord (APA) and Third-Party Deductions to control arrears and prevent evictions.

## **9 CONTROL & RECOVERY**

9.1 Where preventative measures have failed, Cloch will take timely, decisive action in the recovery of the debt following the Association's Rent Arrears Procedure. The Association will develop a detailed set of procedures identifying actions, roles and responsibilities in implementing its policies. These procedures will be subject to regular review and audit.

9.2 The Association will take a firm but fair approach when dealing with tenants who have arrears and will consider all options available to help the tenant to deal with clearing their arrears. We will enforce our arrears procedure consistently, efficiently and effectively.

9.3 Arrears recovery will focus on personal contact via visits and telephone conversations with tenants as well as informing customers of the debt and consequences of non-payment in writing.

9.4 The Association will expect low level debts (of one month's rent or less) to be cleared in a single payment and will only agree to instalments where the tenant can demonstrate their inability to pay in a single payment following analysis of their income.

9.5 For higher level debts the Association will accept repayment by instalment and will make agreements taking into account the tenant's personal circumstances and the time in which the debt will be paid in full. These agreements will be both manageable for the tenant and acceptable to the organisation. Repayment periods will not normally exceed 2 years, and this length of time will only be agreed in exceptional circumstances.

9.6 We will explain in a clear and concise way the action that we are taking against tenants to recover rent arrears, stressing at all times the serious implications that failing to pay rent may have on the tenancy.

9.7 As a last resort, we will raise court action and ultimately take eviction action against tenants who persistently refuse to pay their rent when it is lawfully due. Before court action is instructed the Head of Housing Services will have to approve the case to proceed to court and ensure that all actions have been taken under the pre court action requirements. Please refer to the Legal Action & Eviction Policy (HM027) for more information.

9.8 The Association will work with tenants until the last moment to prevent eviction action becoming necessary and will also advise tenants accordingly of any legal fees that they will be responsible for as a result of the court action.

9.9 Accurate records will be kept on computer of all contact including letters sent, house visits, arrangements made and HB/UC eligibility to allow staff to monitor each rent account.

## **10 PERFORMANCE MONITORING**

10.1 Annually as part of the budget setting and business planning process, the performance target for arrears will be set as a percentage of the annual rental income of the Association. This target will be based on “Non-Technical Arrears” i.e., excluding arrears due to delays (technical) in the administration of housing benefit & direct housing payments by the local authority or direct payments by the DWP.

10.2 Targets for performance will be benchmarked against other RSLs and reported within the association’s Business Plan. Key Performance Indicators will be reviewed quarterly by the Leadership Team & presented to the Board.

10.3 The Housing and Property Services Sub-Committee has delegated authority to monitor arrears performance. At least each quarter a performance report will be presented outlining the current Arrears performance to the Housing and Property Services Sub-Committee.

## **11 CO-OPERATION WITH OTHER AGENCIES**

11.1 Cloch will co-operate with external agencies that may assist the tenant in managing their financial circumstances and reducing their debts, particularly their rent arrears. Mandates where required will be completed.

## **12 LEGAL ACTION**

12.1 The Housing Services Section of Cloch Housing Association will adhere to this Policy framework and an internal procedure to control, minimise and recover rent arrears. However, where the tenant either fails to co-operate in reducing the arrears or continuously breaks a repayment arrangement, the Association will take legal action. For more details of this process, reference should be made to the Legal Action and Eviction Policy (HM027).

## **13 FORMER TENANT ARREARS & WRITE OFFS**

13.1 Former tenant arrears will be pursued using the same principles as current tenant arrears. Where appropriate payment arrangements will be agreed with former tenants to clear the balance. Tenants ending their tenancy will be reminded of their payment responsibilities and encouraged to provide a forwarding address.

- 13.2 Where initial action to recover former tenant arrears has proved unsuccessful Former tenant arrears may be passed to a debt collection agency (DCA) for pursual where this is commercially viable; debts of less than £75 will generally be written off once internal procedures have been exhausted.
- 13.3 Arrears deemed to be irrecoverable by a debt collection agency will be written off without further action. Written off debts does not negate the former tenant's responsibilities for the debt, and should their whereabouts be known in future, or they make an application for rehousing, they will be pursued for the debt.
- 13.4 The Head of Housing Services has delegated authority to authorise the write off of arrears and credits under £750 once all recovery processes have been exhausted. Former tenant arrears and credits of £750 or more will not be written off without the authority of the Housing and Property Services Sub-Committee.
- 13.5 The Association will generally write-off all housing debts of tenants who are evicted at the time of eviction as there is unlikely to be any prospect of recovery if the threat of losing their home has not resulted in payment of the debt. The Head of Housing Services has delegated authority to write off these debts in these cases.
- 13.6 All other write-offs, including rechargeable costs, will be presented to the Housing and Property Services Sub-Committee for approval no less than once annually, but normally in November and February each year to coincide with meeting cycles and the end of the financial year.

#### **14 SEQUESTRATION (BANKRUPTCY)**

- 14.1 Where we receive official notification that a tenant has been sequestered, any arrears pre-dating the order will be written off in accordance with current legislation. We will insist that they continue to pay their monthly rent going forward.
- 14.2 Although the arrears may be unenforceable the Association may still rely on them to pursue a Decree of Recovery of Possession (eviction action). It would be for the sheriff to determine whether it was reasonable to evict. If there is no attempt to meet further post sequestration rent obligations a Sheriff may look favourably on a request to evict.
- 14.3 Once a debtor is sequestered, the Association will contact any trustees for the partial or full repayment of any debt as the trustee must approve what the tenant pays to the Association towards the sequestered debt.
- 14.4 The Association will write-off sequestered arrears as at the date of sequestration in accordance with the financial procedures of the Association once confirmation from the Accountant in Bankruptcy (AIB) is received. This will be approved by the Head of Housing Services subject to normal Authorisation limits (currently up to £5,000).

## **15 OTHER TENANCY DEBT**

- 15.1 Other tenancy debts such as rechargeable repairs, Benefit overpayments, legal expenses and Sheriff Officer fees may be incurred by a tenant and are accounted for separately to rent arrears. We will always attempt to recover these debts and will expect tenants to make arrangements to clear them if they want a transfer or an exchange.

## **16 BOARD MEMBERS IN ARREARS**

- 16.1 As Board Members may also be tenants of the Association, those tenants should not accrue arrears. Any Board Member continuing to accrue arrears for 3 months or more (with the exception of technical arrears) without addressing the repayment of the arrears and are subject to legal action will be referred to the Board to discuss termination of the individuals' board membership or to invite a resignation in accordance with Section 44.5 of the Association's rules.

## **17 APPEALS AND COMPLAINTS**

- 17.1 Appeals or complaints against our operation of this policy will be processed through the association's complaints handling procedure, which is available at the Association's office or on our website.

## **18 EQUALITIES COMMITMENT**

- 18.1 Cloch Housing Association is committed to tackling discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation.
- 18.2 Cloch seeks to embrace diversity, promote equal opportunities for all and eliminate any unlawful discrimination in all areas of our work.

## **19 POLICY AVAILABILITY**

- 19.1 This document can also be provided in large print, braille, audio or other non-written format and in a variety of languages, on request.

## **20. MONITORING AND REVIEW**

- 20.1 This policy will be reviewed every three years, unless amendment is prompted by a change in legislation, operational requirements, or customer feedback. The Policy will be reviewed in consultation with tenants, sharing owners and staff.