

## Income Arrears & Debt Management Policy

<b>Purpose:</b>	To establish DPHA's policy and set out our position on Income Arrears & Debt Management
<b>Review Date:</b>	November 2021
<b>Guidance:</b>	<p>Housing Act (Scotland) 2001 – Part 2, Chapter 1 – Scottish Secure Tenancy.</p> <p>Bankruptcy Scotland Act 1985</p> <p>Bankruptcy and Diligence etc. (Scotland) Act 2007</p> <p>Bankruptcy and Debt Advice (Scotland) Act 2014</p> <p>Debtors (Scotland) Act 1987</p> <p>Debt Arrangement and Attachment (Scotland) Act 2002.</p> <p>The Debt Arrangement Scheme (Scotland) Regulations 2011</p> <p>The Protected Trust Deeds (Scotland) Regulations 2013</p> <p>Human Rights Act 1998 – Article 8 (principles, irrespective of applicability) – proportionality - level of debt in relation to severity of actions taken against debtors.</p> <p>Office of Fair Trading guidelines for the collection and recovery of debt</p> <p>Welfare Reform Act 2012</p>
<b>Regulatory Standards:</b>	<ol style="list-style-type: none"> <li>1. The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.</li> <li>2. The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.</li> <li>3. The RSL manages its resources to ensure its financial well-being and economic effectiveness.</li> <li>4. The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.</li> </ol>
<b>Date reviewed by Policy Review Working Group (PRWG):</b>	21 November 2018
<b>Date approved by Management Committee:</b>	23 January 2019

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## **1.0 INTRODUCTION**

- 1.1 This policy provides guidance to staff and customers of Dalmuir Park Housing Association (DPHA) about how we will collect income, manage arrears and recover any debt due. It also makes clear the support we will provide around income maximisation, and the role of staff in supporting our customers.
- 1.2 Our staff work to a principle of supporting customers from the earliest opportunity, thereby promoting a culture of positive payment throughout the duration of the contractual agreement.
- 1.3 DPHA complies with legislation and follows good practice principles in managing income and any associated debts.
- We provide services to our customers that are in line with the Social Housing Charter and our supporting strategies.
  - We expect our customers to pay for the services they receive on the due date.
  - Our customers will be made aware of the consequences of not complying with their responsibilities and obligations to pay the charges due.
  - Our staff will provide advice, information and support and where appropriate, we will refer people to other agencies that can provide additional support.
  - When we introduce new payment methods, we will accompany it with a communications strategy to promote and embed use. This will support a positive customer payment culture. Where appropriate we will work with partners to establish and help support this, particularly where vulnerable customers are involved.
  - We will make sure our customers are treated with respect and dignity at all times
  - We will work with our customers to understand their needs and take particular account of any vulnerability that they may have. For instance, this may include changes to the welfare system which affect them, disabilities or support requirements.

## **2.0 AIMS OF THE POLICY**

- 2.1 The effective management of income and prevention of customer debt is crucial to the maximisation of resources available to DPHA. We aim to continually reduce the overall level of arrears owed to us. We will ensure all staff understand this policy and deliver services in a consistent manner.
- 2.2 The aims of this policy are to:
- To communicate clearly to customers the cost of the service, both their and our responsibilities, and our approach to collecting income and the consequences of non-payment

- To ensure there is a positive payment culture where all our customers are aware of their responsibility to meet their financial obligations
- To ensure we have collection methods that are simple, convenient and demonstrate value for money. Our customers will be given as wide a choice of payment methods as is practicable. We will provide the most cost-effective methods to meet our customer needs. Our preferred method of payment is direct debit
- To follow specific write off and credit refund procedures and provision for bad debt.
- To improve the quality of available data to support performance management and reporting and maintain an up to date overview of debt.
- To equip staff with the necessary skills, knowledge, training and resources to deliver this policy.

### **3.0 LEGAL AND REGULATORY REQUIREMENTS**

3.1 This policy has been developed taking into account the legislation and regulations governing Registered Social Landlords (RSLs). Legislation relevant to this Policy includes: -

- Housing Act (Scotland) 2001 – Part 2, Chapter 1 – Scottish Secure Tenancy.
- Bankruptcy Scotland Act 1985
- Bankruptcy and Diligence etc. (Scotland) Act 2007
- Bankruptcy and Debt Advice (Scotland) Act 2014
- Debtors (Scotland) Act 1987
- Debt Arrangement and Attachment (Scotland) Act 2002.
- The Debt Arrangement Scheme (Scotland) Regulations 2011
- The Protected Trust Deeds (Scotland) Regulations 2013
- Human Rights Act 1998 – Article 8 (principles, irrespective of applicability) – proportionality - level of debt in relation to severity of actions taken against debtors.
- OFT guidelines for the collection and recovery of debt
- Welfare Reform Act 2012

### **4.0 STARTING THE CUSTOMER RELATIONSHIP**

***Our customers will always be clear on what they have to pay, when they have to pay and how they will be charged.***

- 4.1 We will always discuss tenancy or other agreement terms with the customer before they sign any contract or agreement so that our customers are fully aware of the contract terms and obligations that they are agreeing to from the very start.
- 4.2 We will clearly explain any obligations and responsibilities and specifically provide in writing:
- The total cost of any rent or charges.

- A breakdown of service charges.
- Any expected deposits or charges that must be paid.
- When and how those payments should be made.
- The relevant terms and conditions of that agreement.
- The risk associated with non-payment.

***Our customers will be clear on what services are provided for the charge they pay.***

4.3 We always aim to provide Value for Money.

4.4 We will confirm with the customer any services that will be provided under the tenancy agreement; how these services will be delivered and any service delivery commitments.

***Our customers will always be given advice and information to ensure they can afford the service offered.***

4.5 The contractual obligations of any tenancy agreement will be discussed in full with the customer at the earliest opportunity.

4.6 Staff will refer and signpost any customer for appropriate support and advice where there may be a concern about vulnerability or ability to pay. We will encourage customers who may experience difficulties to contact us at the earliest opportunity, so that we can prevent debts from accruing or increasing or becoming difficult to manage.

***Our customers will be clear on what to pay, when to pay and the different payments options available to them.***

4.6 Our customers will be given as wide a choice of payment methods as practicable which are convenient and accessible.

4.7 We will make sure customers know they have a responsibility to pay any monies due, in full and on time as per the terms of their tenancy agreement. The customer will be told of the various methods of payment available to them, what they are expected to pay and when those payments should be made, so that they do not break the terms of their agreement with us. Customers will also be clear about their responsibility to notify staff of any change of circumstances.

4.8 Where we confirm with the customer that there is a charge to be paid from day one, we will expect this charge to be paid. We will follow our rent from day one guidance and procedures including taking account of individual circumstances.

4.9 If we decide that a charge must be increased, we will give written notice of the change in accordance with our agreement.

***Our customers will be made aware of the consequences of not keeping to their agreement to pay the charge due.***

- 4.10 It will be made clear to all of our customers the consequences of non-payment. If a debt is identified, we will make sure that the customer is aware of all the support that is available to them, both internally and externally, to help them manage their account to prevent further debt accruing.
- 4.11 We aim to be both proactive in supporting customers, and reactive to prevent and minimise debts being incurred. We will ensure financial inclusion strategies are in place to assist customers who may have difficulty accessing basic financial services.

***We will support our customers throughout their journey with us.***

- 4.13 We will work with our partners to create opportunities for our customers to receive the best possible support, advice and information where necessary.
- 4.14 Our discussions will capture essential customer data such as household composition and support needs, to help us to provide the most appropriate services, options and support where required. This data will be used to help us develop tailored approaches and any subsequent collection, prevention, management and recovery of debts and charges.

## **5.0 BUILDING ON THE RELATIONSHIP**

- 5.1 We are committed to building and sustaining positive relationships with all our customers. We will do this by:
- Staying in touch regularly with all of our customers at least annually.
  - Making sure we have accurate profile information about our customers.
  - Knowing each customer and their needs.
  - Help our customers through any changes in their circumstances.
- 5.2 We will provide support for our customers to help them maintain their agreement with us, sustain their tenancies and prevent arrears accruing. We will do this by:
- Ensuring customers know their charge to pay.
  - Making clear the consequences of non-payment.
  - Providing advice and support at all stages to customers.
  - Referring/signposting customers to support services tailored to suit individual requirements e.g. money advice, fuel advice, employability support etc.
  - We will work with partners and relevant agencies to ensure our customers can access appropriate support.
- 5.3 There will be occasions when a customer either cannot or will not maintain payments to their account. If that happens we will:
- Make contact at the earliest opportunity after the payment due date to establish the reason for non-payment and to avoid the debt becoming unmanageable.
  - Discuss payment of the debt and/or agree an appropriate and affordable repayment arrangement.

- Make any decision on a case by case basis, informed by our knowledge of our customer's circumstances.
- Enforce sanctions where appropriate – this may include but is not restricted to; withdrawal or limitation of service, deduction of payments from compensation, suspending housing applications, escalation to debt recovery team, court action for debt recovery including repossession for rent arrears cases.

5.4 Where collection from a customer is required, we aim to:

- Ensure our staff have a clear set of procedures to follow when dealing with the collection and recovery of monies.
- Contact customers quickly where a debt occurs.
- Apply all payments timeously to relevant accounts.
- Adhere to any time limits set in recovery procedures.

5.5 Where a customer accrues a debt and contacts us to discuss this, we will:

- Agree an appropriate and affordable repayment arrangement which takes into account the customer's personal circumstances through an income and expenditure assessment.
- Negotiate arrangements for a single payment to cover all indebtedness where a customer may owe multiple debts. Examples may include but are not restricted to; current charges, former account charges, court costs, repair charges.
- Confirm any arrangement in writing.
- Use any credit in a customer's account, to offset their debt owed to us.

5.6 If a customer fails to engage with us when debt accrues, debt recovery and court action may be some of the steps taken to recover any sums owed. In the case of rent arrears, we will also seek the ultimate sanction of eviction and recovery of our tenancy. Before issuing a Notice of Proceedings (NOP) intimating to the tenant that we are intending raising court action, we will carry out a Pre-Action Requirements to satisfy that this serious action is necessary. This will be reviewed in each case by the Housing Manager to ensure adherence to this policy and **pre-action requirements** are completed before the decree is applied for. Where decree for eviction is granted by a Sheriff, these cases will be subject to a final review and authorisation by the Director before the eviction is carried out to ensure full adherence to this Policy.

5.7 We will follow our debt escalation process and engage appropriately with our legal advisers and debt recovery agents. They will provide advice and support to officers who are responsible for collecting the agreed charges, to assist them in the collection or perusal of any debts owed.

## 6.0 ENDING THE RELATIONSHIP

6.1 When either party gives notice to end the tenancy agreement, we will:

- Conduct an exit interview and inspection of the property.
- Conduct a full debt check and if a debt is identified, make arrangements for prompt repayment.

- Provide any documentation where appropriate.
- Provide references upon request at our discretion and include any adverse matters that we see fit.
- Refund credits (after deductions for any debts)

6.2 In circumstances where there is current court action and where we have contact information, we will remain in touch with the customer until proceedings have concluded. We will review the case throughout the duration and may alter our planned actions in agreement with the customer.

6.3 We will consider all options available to us for managing the debt including court action and eviction.

6.4 Each case will be managed individually, taking into account the circumstances of the case and the reason for ending the agreement.

6.5 Customers with outstanding debts will be made aware of the consequences for any future services from us, should they fail to make or keep to a repayment plan.

## **7.0 FORMER TENANT/ CUSTOMER/ SERVICE USER ARREARS**

7.1 Former tenant arrears arise when the tenancy is terminated with rent or any other charges owing (e.g. service charges, re-chargeable repairs etc) owing. Other customers/ service users may also accrue arrears that are still recoverable after their relationship with us ends (e.g. factoring debt, users of our support services).

We will ensure that:

- We maintain accurate information.
- Action is pursued to recover former tenant/ customer/ service user arrears in accordance with our procedures.

## **8.0 WRITING OFF DEBT**

8.1 We will write off debt periodically in line with our Write Off Policy.

8.2 A debt may be written off where it has been deemed to be irrecoverable. We have set out defined criteria to assist our staff in deciding whether a debt is deemed recoverable or not. We will still attempt to recover written off debt if the opportunity arises, e.g. we trace a former tenant who leaves our tenancy owing debt or any other debtor is traced.

## **9.0 ARREARS/ DEBT ACCRUED BY MANAGEMENT COMMITTEE MEMBERS OR STAFF**

9.1 We expect the highest standards of conduct from our people (governing body members and staff. This does not mean that our people, who are also tenants/ customers/ service users of the Association may not experience difficulty in paying their bills including charges due to us.



- 9.2 Where debt to the Association is owed by Committee or staff members, they will be subject to this policy in the same manner as all other customers.
- 9.3 However, in the case of a member of the Management Committee, the Rules of the Association require that they will cease to be a member if he/she is a party to any legal proceedings in any Court of Law by or against the Association. This will include any action raised under this policy.
- 9.4 In the case of a staff member, failure to positively engage with the association to address any debt issues in a manner acceptable to the Association may be considered a conduct issue and could result in action being taken against the employee under the Association's Disciplinary Policy.

## **10.0 PERFORMANCE MONITORING**

10.1 We will submit quarterly reports, statistics and trend analysis to our Management Committee. Generally, this will cover issues such as; income collected; arrears accrued; debt written off; former tenant arrears. Key measures of assessing success include:

- Reduction in % and value of gross rent arrears (which includes sitting tenant arrears, former tenant arrears and arrears write off).
- Increase in rent collected as % of total rent due.
- % of customers in arrears.
- Reduction in other levels of debt.
- Number of court actions raised, and evictions granted/ carried out.

## **11.0 GUIDANCE AND PROCEDURES**

11.1 Detailed guidance and procedures for staff will support the implementation of this policy. Specifically, we will provide procedural guidance on arrears escalation / debt recovery including:

- Rent from day one (in accordance with the missive)
- Collection and recovery process
- Referral to our Debt Recovery/ Collections Team
- Pre-action protocol
- Referral to debt recovery agents/ solicitors for Legal Action
- Debt write off
- Former tenant arrears
- Collection of re-chargeable sundry debts
- Collection of service charges
- Collection of factoring debt

## **12.0 STAFF TRAINING AND AWARENESS**

12.1 We will ensure that all staff and our Management Committee are aware of this policy and receive appropriate training. We have detailed procedures, guidelines and staff training to underpin this policy.

## **13.0 EQUALITY AND DIVERSITY**

13.1 We are committed to promoting an environment of respect, understanding, encouraging diversity and eliminating discrimination by providing equality of opportunity for all. This is reflected in our Equality and Diversity Policy.

## **14.0 COMPLAINTS**

14.1 Although we are committed to providing high levels of service, we accept that there may be occasions where you may not be not satisfied with the service you have received from us. We value all complaints and use this information to help us improve our services. Our Complaints Policy describes our complaints procedure and how to make a complaint.

## **15.0 GDPR**

15.1 We will treat all personal data in line with our obligations under the current data protection regulations and our Privacy Policy. Information regarding how all data will be used and the basis for processing your data is provided in our Customer Fair Processing Notice.