

**RENT COLLECTION, ACCOUNTING AND ARREARS CONTROL POLICY**

1. The aim is to ensure that all tenants pay their rent on time and are not in arrears. If a tenant is in arrears then this policy and procedure will be applied sensitively and effectively.
2. Full details of the rent collection and accounting aspects are available in the Co-operative's Financial Regulations and Procedures.
3. All financial advice and assistance should be made available to tenants to avoid them getting into arrears of rent. It is in the tenants' best interests that all assistance be given to help them reduce and clear arrears.
4. The Co-operative recognises that the best means of arrears control is prevention. Prompt reminders should be sent to tenants who fail to make payments to prevent arrears from growing out of control.
5. All new tenants should be given full advice about payment methods, entitlement to housing benefit, where to get advice on other welfare benefits. They should also be advised on what to do should they get into arrears. Those new tenants who do get into arrears should be visited as soon as possible to avoid this becoming a typical pattern.
6. Where arrears occur all attempts should be directed at maximising the tenant's income and coming to a voluntary arrangement for repayment of debt, taking into account the personal circumstances of the tenant and his/her household.
7. Detailed reporting to the Management Committee on individual cases will occur where there is a breakdown in communication or co-operation between staff and tenant and/or a decision regarding legal action is required. Staff can authorise all stages of legal action apart from that of seeking a decree (which may lead to an eviction). This must be agreed by either the Office Bearer's Sub Group or the Management Committee.
8. The Co-operative will only take legal action where all other attempts to help the tenant towards clearing arrears on a voluntary basis have failed. If the tenant is employed, a Debt Action for recovery of debt by wage arrestment may be instructed. Otherwise a Repossession Action may be the only recourse. Usually a repossession action and a debt action are instructed at the same time.
9. The Co-operative recognises that eviction represents a failure on the part of the Co-operative and tenant to resolve the problem mutually, and such action will be taken as a last resort after exploring all other options.
10. Abandoned property shall be repossessed as soon as possible, though careful checks should be made in all cases. If there is any reasonable doubt as to whether it has been abandoned, then Court action should be taken rather than using the abandonment clause.
11. A monthly report will be made to the Management Committee of overall figures for monitoring control and progress. This will comprise details for the past two months, of:
  - a. Monthly arrears figures
  - b. Percentage arrears against gross annual rental
  - c. Numbers of tenants in arrears and average arrear per tenant

- d. Breakdown of arrears into bands
  - e. Arrears due to housing benefit difficulties
  - f. Former Tenant Arrears
  - g. Requests for authorisation to write off Former Tenant Arrears
  - h. Individual arrears cases - a monitoring sheet in a confidential format.
12. Targets for arrears recovery will be set out each year as part of an annual review of this policy and procedure. The performance of the previous year will be compared with the targets, lessons learnt and action considered.
  13. The Internal Management Plan will set out the record of arrears over previous years and monitor performance versus targets.
  14. Distraint, i.e. warrant sales by Bailiffs, shall not be used by the Co-operative to recover any arrears or debts.
  15. The Co-operative shall make efforts to recover other sums owed, such as former tenants arrears, rechargeable repairs, etc.
  16. Overpaid housing benefit owed by a current tenant and recovered from Lister by the Council shall be recovered in the same manner as arrears.
  17. Amounts owed by Former Tenants shall be monitored closely to ensure that sums owing are paid off as soon as possible. Where payments are not forthcoming then legal action shall be considered, weighing up the costs and likelihood of success and recovery as against the sum outstanding. Use of the Courts using the Small Claims Procedure by Lister staff is a cost effective approach. Where there is very little or no chance of sums being recovered then a report to the Management Committee should be made on the question of writing off the amount owing.
  18. The Co-operative shall notify the local authority, the City of Edinburgh Council, when it seeks a Court Date for an eviction. This is to comply with Section 11 of the Homelessness etc (Scotland) Act 2003.

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## RENT COLLECTION, ACCOUNTING AND ARREARS CONTROL PROCEDURES

1. The rent due on each property falls due at the beginning of each month (each individual tenant's tenancy agreement specifies the exact date due - typically the First of the month). Rent is charged monthly, and is due monthly in advance.
2. Rent may be paid by the methods listed below:
  - a. By bank standing order
  - b. By direct debit (through *allpay.net*)
  - c. By cash or cheque to the office
  - d. By housing benefit direct
  - e. By countersigning one's housing benefit cheque and handing it into the office.
3. The rent account books are 'closed' on or soon after the 24th of the month. This enables the accounting to be carried out and 'close of books' arrears activity to commence before the rent for the next month is due. Any rent paid after the books have closed will be entered onto the next month's rent sheets.
4. Full details of the rent accounting and recording systems are in the Co-operative's Financial Regulations and Financial Procedures.
5. The Director shall be responsible for all aspects of the rent procedures. The Housing Officer shall assist the Director and shall deputise for him in his absence.
6. The attached Flow Chart is a summary of the procedure detailed below.
7. If no payment has been received by the 17th of the month a written reminder should be issued, including information on ways in which help may be obtained in paying rent; (e.g. Housing Benefit) and requesting payment or reply within a specific period.
8. After the rent books have been closed for that month and no payment or contact has been made, a stronger written or telephoned reminder should be issued or home visit arranged. A home visit is very important especially if it is a new tenant to Lister.
9. If at this stage a response is made, staff should try to identify the reason for delayed payment. Difficulties in meeting payments may arise for a variety of reasons; e.g. unemployment, low income, social problems, marital or family reasons. Each arrears case is individual. Where appropriate the assistance of external agencies should be sought; e.g. Social Workers, Home Helps, DWP etc.
10. Arrears action
  - a. Wherever possible, tenants should be asked to sign a mandate authorising Housing Benefit to be paid direct to the co-operative. Tenants should also be asked to sign a mandate authorising housing benefit to release information to Lister staff about the applicant's claim.
  - b. If payment has been sorted out, or a suitable arrangement made for clearing the debt, no further action beyond monitoring should be required.

- c. All verbal agreements and details of meetings shall be confirmed in writing by the Co-operative.
  - d. If no payment or positive response has been forthcoming and a further rent has fallen due, a letter should be issued to the tenant intimating the Co-operative's intention to commence legal action for repossession of the house. Every attempt must be made to visit/interview the tenant at this stage to ascertain the reason for non-payment and to make arrangements to clear the arrear. If this can be achieved the position as outlined in b. above prevails.
11. If there has been no success in resolving the problem at this stage (by now 2 months rent may be outstanding), staff shall now decide whether to serve a Notice to Remove.
  12. Where a Notice to Remove or Debt Action has been issued, the cases should be reported to the Management Committee for monitoring purposes. Staff should continue their efforts to visit the tenant and come to an agreement for repayment. Staff may ask the Co-operative's solicitors to send a warning letter to a tenant.
  13. Where an initial letter from the Co-operative's solicitor has been sent and payments recommence, then should these payments stop, the Co-operative may go direct to the next stage of the legal process rather than just re-sending another 'initial' solicitors letter.
  14. Should there continue to be no response or attempts to pay the Staff may decide to proceed with repossession action. This cannot be started until the Notice has run for a minimum of 4 weeks, ending on the 'ish' date of the tenancy - the Notice will have the exact 'expiry' date. The Notice shall also only be valid for 6 months, by law, from the 'expiry' date. If the 6 months has passed then another Notice must be served.
  15. The next stage, of seeking a Court Hearing for a Decree for eviction, should be put to the Management Committee or the Office Bearer's Sub Group. This is because Lister should only seek a Decree where we plan to implement it, if granted by the Court. The only reason for not implementing it is if the tenant pays the full sum of arrears stated in the Decree to Lister before the actual Decree document is received by Lister from the Court. The general policy of the Co-operative is to implement Decrees unless there is full payment of the amount owing (though see the next paragraph for further qualification on this point).
  16. It may be that the Co-operative may still wish to implement a decree even if the tenant does pay the sum in full. This decision must be made clear to the Management Committee / Office bearer at the stage of seeking approval for this course of action. The tenant should also not be advised incorrectly, i.e. told they would not be evicted if they pay all the rent.
  17. Provided approval to proceed has been granted by Committee / Sub Group, the tenant should be advised that the Co-operative's solicitors have been instructed to continue legal action, and the solicitors will be asked to obtain a Court Hearing date. The tenant will also be warned that this could incur Court costs which the tenant would be liable to pay to the Co-operative. These costs can arise both when an action is successful for Lister, and also where an action is dismissed (e.g. because the arrears have been paid). The solicitor will be given a written instruction to continue action and issued with briefing papers.
  18. The Co-operative shall notify the local authority, the City of Edinburgh Council, when it seeks a Court Date for an eviction. This is to comply with Section 11 of the Homelessness etc (Scotland) Act 2003.

19. The options that can arise at the first court hearing are: Case dismissed (there may be an order for costs made); Sisted (the instigator of the action i.e. Lister can ask the Court to defer the case); Continued (the case is postponed until an agreed future date); or Decree.
20. In the event of a Decree for Possession being obtained, the staff will implement it unless full payment of the sum specified in the Decree is paid to Lister in full before the written Decree is received by Lister (and Lister has not decided to implement the Decree no matter if payment is received or not). Sheriff officers and Joiners can be instructed accordingly by staff.
21. If a tenant has a Decree order against them, and then pays off all the sum and Lister agrees to allow them to stay on as tenants, then a new Tenancy Agreement shall be signed with the tenant(s).
22. For each arrears case records will be kept on monthly monitoring sheets and copies of all significant correspondence and notes kept on the tenant's individual file.
23. The Management Committee shall be informed each month of the rent arrears figures and statistics as set out in the Policy (Item 12). Individual cases should be kept anonymous. Where the tenant is named then it shall be recorded under confidential business.
24. Where a tenancy appears to have been abandoned then it should be repossessed as soon as possible to minimise the loss of rent and other risks associated with an abandoned property. The abandonment procedures available under the tenancy should be used.
25. Staff may appeal to the Council on issues of the recovery of overpaid housing benefit where there may be grounds for the Co-operative as landlord to appeal. Staff can also assist tenants with appeals where the tenant has given approval for Lister to assist and there seems good grounds for an appeal.

#### FORMER TENANT ARREARS

26. Staff shall monitor and attempt to recover former tenant arrears, and other debt owed to the Co-operative such as rechargeable repairs. Staff have the authority to commence legal action, either direct through the small claims court or else via lawyers. Accurate records shall be kept of all correspondence and payments in these cases.
27. Attempts to trace the former tenants should be made if a forwarding address is not known. These could include asking neighbours and relations; checking on the EdIndex system; checking with other housing associations and the Council; following up any leads that arise.
28. Staff can consider the use of debt collection agencies, but the Management Committee must agree to any proposal to engage such a service. The likely income to be gained versus the costs and administration need to be weighed up.
29. It is important to seek payment from the outgoing tenant soon after the tenancy has ended and to pursue the matter if there are no payments forthcoming. People are likely to relinquish responsibility over time if they think they have got away with not paying. Following through with any sanctions for non-payment should be done promptly.
30. Staff shall weigh up the cost and time of such recovery action (outlined in 20 above) in relation to the size of the debt owed and also giving consideration to the likely income and assets of the individual concerned. Sums to be written off can only be done so with the approval of the Management Committee.

LISTER HOUSING CO-OPERATIVE LTD.

**ARREARS CONTROL - FLOW CHART**

***Revised February 2009***

<i>DATE</i>	<i>ACTION</i>	<i>NO. WEEKS ARREARS</i>
1st day of each month	Payment due	0
17th day of the month	No payment = reminder letter	2
After books closed (on or after 24th day)	No payment = stronger reminder letter / telephone call / visit	4
2nd payment due (start second month)	Visit / letters	
	Positive response = Make arrangement (signed agreement by tenant) and monitor	Negative response = Warn of referral to lawyers
17th day of the month	No payment = reminder letter, tailored to stage reached	6
3rd payment due (start third month) + ongoing	No payment / Repeated breakdowns in arrangement = Issue Notice to Remove / Raise Debt Action	8
	Further visits and monitoring	
	Approval for Court hearing sought (once Notice expires)	
	Ask Lawyers to apply for Court hearing / Notify CEC of court date action commencing	
	Decree issued by Court	
	Staff implement decree unless full payment received	
	Sheriff Officers authorised	
	Eviction	

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