

SCOTTISH VETERANS RESIDENCES

ARREARS POLICY

Updated 1st October 2019

INTRODUCTION

Tenants and residents are responsible for payment of the whole amount of the rent set out in their tenancy agreement or the charge set out in their occupancy or support agreement whether they pay all or some of the rent / charge themselves or fulfil their obligation by applying for benefits. If an application for benefit is refused in whole or in part the tenant or resident is still liable for payment of the whole amount of the rent / charge.

An arrears policy is necessary:

1. To safeguard the financial well being of the Scottish Veterans Residences (SVR).
2. To lay down procedures for payment of arrears for the benefit of staff, committee members, tenants and residents.
3. To lay down procedures with a view to minimising any build up of arrears and to manage arrears if they occur.

Every Housing Association should adopt and implement a formal policy in respect of control of arrears whether rent arrears or arrears of other payments due to it. Any such policy should address the prevention of arrears as well as control of those arrears that do arise.

Note: Throughout this Policy the words “tenants” and “tenancy” are used to refer to the occupants of the properties let on Scottish Secure Tenancies (or Short Scottish Secure Tenancies). The word “residents” is used to refer to the occupation of rooms in Bellrock Close, Whitefoord House and Rosendael. The words “Occupancy Agreements” and “Support Agreements” refer to the different Agreements which the residents may have at Whitefoord House, Rosendael and Bellrock Close. While, the Occupancy Agreements are leases and, therefore, the general law of leases applies to these Agreements, they are **not** leases which are afforded special protection in terms of specific housing legislation and, accordingly, SVR are entitled to recover possession for breach of the terms of an Occupancy Agreement, including for arrears of rent as set out in this Policy. Support Agreements are agreements in terms of which SVR offer housing support to residents and the cost of receiving this support is covered by the charge made for it set out in the Agreement.

ARREARS PREVENTION

Tenants and Residents are advised at interview when signing their tenancy, Occupancy or Support Agreement of:

1. Level of rent / charge.
2. Methods of payment.
3. Entitlement to housing or other benefits where appropriate.
4. Date of first rent increase and form this will take; how the charge may be increased.

New tenants and residents are monitored closely in order to avoid potential problems, with letters being issued regarding recovery of sums due and potential re-possession of accommodation – see section headed “Recovery Procedure”.

Early engagement with staff helps prevent arrears building up, makes any arrears more manageable and, therefore, reduces the likelihood of SVR having to seek to recover possession of accommodation.

Tenants and residents are advised clearly and in detail, of proposed increases in rent /charge and service charges, SVR giving, in all cases, at least 28 days notice.

ARREARS CONTROL

Matters taken into account

The following factors have been considered when formulating an arrears procedure:

1. The procedure should result in arrears being cleared.
2. The procedure should aim to establish the tenant or resident back into a pattern of regular payment.
3. The procedure should be cost effective.

Our rent arrears accounting system enables us to produce a list of (a) all tenants in arrears, monthly; and (b) all residents in Whitefoord House, Rosendael and Bellrock Close in arrears, weekly.

Personal Contact

One of the benefits of a small Housing Association such as ours is that we know the circumstances of most tenants and residents and our procedures can be tailored to suit. It is important to retain some flexibility. Personal contact should be made, therefore, whenever possible at any or all stages of the process.

When making personal contact with a tenant or resident over an arrears situation, it is important to remember the key elements of any interview:

1. Know the level of arrears.
2. Try to establish the cause of the arrears.
3. Endeavour to make an acceptable arrangement. This will include:
 - a. The size of instalments which can realistically be made.
 - b. The frequency and starting date of instalments.
 - c. The meeting of future rent / charge.
4. Explain what steps will be followed if the arrangement is broken – see also under “Recovery Procedure” below.

The making of an arrangement is an important one. Any arrangement should be mutually acceptable to both the Association and the tenant or resident and should be realistic. There is no point in making an arrangement that a tenant or resident cannot afford to keep since, in the long term, this

will lead to further financial difficulties. The tenant or resident should be offered advice on budgeting and a review of their benefits to ensure he or she is receiving all benefits due to them. While it is up to the tenant or resident whether or not they wish to accept this offer it should be made clear that breaking any arrangement made will lead to implementation of the next steps in the Recovery Procedure.

RECOVERY PROCEDURE

A Scottish Secure Tenants

The following guidelines by the Chief Executive are for use where tenants fall into arrears. As mentioned above, where there are particular circumstances, procedures can be tailored to suit. Where procedures are tailored, reasons for this should be noted on file. It should also be checked whether there are any other parties occupying a property who would be entitled to receive a Notice of Proceedings for Recovery of Possession. If there are, such occupiers should also receive the letters undernoted.

Note: an occupier is entitled to receive a Notice of Proceedings (and, in terms of this Policy, copies of the letters below, if they occupy the house in question as their only or principal home, they are a member of the tenant's family and are at least sixteen years old or a person to whom the tenant has with the consent of SVR assigned, sub-let or otherwise given up possession of the house or any part of it to, or a person whom the tenant with SVR's consent has taken in as a lodger).

1. One month in arrears - when a tenant falls into arrears by one month reminder Letter A1 is sent and personal contact is made.
2. If the arrears are not paid or suitable arrangements made to do so, then a further visit is made and Letter A2 issued before the end of the next rent period.
3. Two months in arrears – if arrears are not paid, or arrangements are not kept or made, then Letter A3 is issued and once again personal contact made. Letter A3 states and the further personal contact should emphasise that legal action will proceed unless payment or acceptable arrangements or payment are made within 7 days. At this stage the case will be reported to the Chief Executive.
4. Seven days after Letter A3 issued and further personal contact made: if arrears are not paid or acceptable arrangements made to pay the arrears Notice of Proceedings for Recovery of Possession should be issued.

Note: A. Before a Notice of Proceedings for Recovery of Possession is issued, you must check that all the Pre-Action Requirements have been carried out per the annexed check list.

B. You must use the form of Notice specified in the relevant Regulations.

C. If legal action requires to be taken you must be in a position to be able to confirm to a court that the Pre-Action Requirements have been complied with.

D. This guidance applies to rent arrears cases only.

B Supported Accommodation

In the case of residents in Bellrock Close, Rosendael and Whitefoord House, the procedure must differ. This is because residents are not Scottish Secure Tenants, their payments are higher due to the support residents receive and their payments are usually divided between what SVR receive direct by way of housing benefit and what residents pay themselves (“their personal contribution”). Although SVR offer assistance with claiming, and usually receive payment of the greater part of the charge direct from, Housing Benefit, it is essential to remember that the residents are legally responsible for payment of the **whole** amount of the charge (and any other payments) specified in their Agreement some residents at Whitefoord House still occupy under Occupancy Agreements. Most residents, however, occupy in terms of their Support Agreement. As noted below, different letters require to be sent depending on whether a Resident is occupying under an Occupancy Agreement or a Support Agreement. SVR wish to take steps to try and ensure arrears do not build up.

- (a) Where a resident has not co-operated with SVR regarding applications for benefits (or, if they are not eligible for benefits and are, therefore, meeting the full amount of the charge (and any other payments) from their own funds, and have not made payment):-
1. After two weeks without having made a claim for relevant benefits or given evidence thereof to SVR (or, if meeting the whole charge themselves if two weeks in arrears): personal contact made and Letter B1 (Occupancy Agreement) or S1 (Support Agreement) issued.
 2. If no payment or arrangement to claim benefit is made after a further 2 weeks, a formal Notice to Quit is issued (Letter B2) (Occupancy Agreement) or S2 (Support Agreement). **This Notice requires to be posted by recorded delivery post to the resident. It should also be taken to them and they should be advised to expect a further copy of the letter by recorded delivery.**
 3. After six weeks : – if arrears are not paid or arrangements are not kept or made and/or there is still no co-operation with regard to claiming benefits then a further letter (B3) (Occupancy Agreement) or S3 (Support Agreement) is issued reminding the resident that proceedings may be raised in terms of the Notice to Quit. The resident should be reminded of the date on which SVR will be entitled to raise proceedings.
- (b) Where the resident has co-operated in claiming housing benefit and is expected to obtain housing benefit but there is non-payment by the resident of their personal contribution:-
1. Five weeks in arrears – personal contact made and Letter C1(Occupancy Agreement) or SC1 (Support Agreement) issued.
 2. If no payment or arrangement to pay the personal contribution is made after a further two weeks, a formal Notice to Quit is issued (Letter C2) (Occupancy Agreement) or SC2 (Support Agreement). **Again, this Notice requires to be posted by Recorded Delivery Post to the resident. It should also be taken to them and they should be advised to expect a further copy of the letter by Recorded Delivery.**
 3. After nine weeks – if arrears of their personal contribution are not paid or arrangements are not kept or made then a further letter (C3) (Occupancy Agreement) or SC3 (Support Agreement) is issued reminding the resident that proceedings may

be raised in terms of the Notice to Quit. The resident should be advised if SVR intend to raise proceedings and the date on which they intend to do so.

In all cases where a resident lacks capacity and has a social worker or has given power of attorney to their next of kin, they will be advised at each stage of the arrears process.

Legal Action

Where a Notice of Proceedings for Recovery of Possession (tenants) or Notice to Quit (residents) has been served and at the date of expiry set out in the Notice the arrears have not been paid or no satisfactory arrangements to make payment of the arrears have been agreed, the case should be referred to SVR's solicitors to arrange for proceedings to be raised seeking a court decree for eviction and/or recovery of arrears. The Local Authority will be informed that proceedings are being raised.

Reporting to Committee

Rent arrears are to be reported to the Chief Executive on a monthly basis. The Chief Executive should be informed prior to any of the following actions being taken:-

1. issue of Notice of Proceedings for Recovery of possession;
2. Service of Notice to Quit (Letter B2/S2 or C2/SC2); and/or
3. raising of proceedings for recovery of possession.

Arrears are detailed by the Treasurer at each of the Housing Association Committee of Management meetings.

Outstanding Debts, Write Offs

At the end of each financial year the Treasurer's staff provide a list of former tenants/residents arrears, if any, for the Committee to authorise write-offs. The action taken and reasons why recovery cannot be expected is reported.

Advice Section

Tenants and residents can obtain advice on the terms of their tenancy or Occupancy or Support Agreement and in connection with any action taken against them in terms of this Policy from a Citizens Advice Bureau, Law Centre, Housing Advice Centre and/or a solicitor.

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6. Letter B2 – Notice to Quit to be issued to resident (Occupancy Agreement) two weeks after Letter B1 (if still no co-operation or payment).
7. Letter B3 – letter to be issued to resident (Occupancy Agreement) who is six weeks in arrears and has not made any payment or arrangement to pay.
8. Letter C1 – letter to be issued to resident (Occupancy Agreement) who is 5 weeks in arrears in paying their personal contribution.
9. Letter C2 - Notice to Quit: to be issued to resident (Occupancy Agreement) 2 weeks after Letter C1 if no payment or arrangement to pay.
10. Letter C3 – letter to be issued to resident (Occupancy Agreement) who is nine weeks in arrears and has not made any payments or arrangement to pay.
11. Letter S1 – letter to be issued to resident (Support Agreement) after two weeks if no co-operation in applying for housing benefit (or if in arrears and resident meeting full amount of charge from their own funds)..
12. Letter S2 – Notice to Quit to be issued to resident (Support Agreement) two weeks after Letter S1 (if still no co-operation or payment).
13. Letter S3 - letter to be issued to resident (Support Agreement) who is six weeks in arrears and has not made any payment or arrangement to pay.
14. Letter SC1 – – letter to be issued to resident (Support Agreement) who is 5 weeks in arrears in paying their personal contribution.

15. Letter SC2 Notice to Quit: to be issued to resident (Support Agreement) 2 weeks after Letter SC1 if no payment or arrangement to pay.
16. Letter SC3 - letter to be issued to resident (Support Agreement) who is nine weeks in arrears and has not made any payments or arrangement to pay.

APPENDIX 1

Pre-Action Requirements

TBC latest version

- (1) The pre-action requirements referred to in section 14(2A) are set out in subsections (2) to (7) below.
- (2) The landlord must provide the tenant with clear information about—
 - (a) the terms of the tenancy agreement, and
 - (b) outstanding rent and any other outstanding financial obligation of the tenancy.
- (3) The landlord must make reasonable efforts to provide the tenant with advice and assistance on the tenant's eligibility to receive—
 - (a) housing benefit, and
 - (b) other types of financial assistance (for example, other benefits or grants).
- (4) The landlord must provide the tenant with information about sources of advice and assistance in relation to management of debt.
- (5) The landlord must make reasonable efforts to agree with the tenant a reasonable plan for future payments to the landlord, such plan to include proposals in respect of—
 - (a) future payments of rent, and
 - (b) outstanding rent and any other outstanding financial obligation of the tenancy.
- (6) The landlord must not serve a notice under section 14(2) if—
 - (a) an application for housing benefit for the tenant—
 - (i) has been made but has not yet been determined, and
 - (ii) is, in the opinion of the landlord, likely to result in the benefit being paid at a level allowing the tenant to pay, or reduce by an amount acceptable to the landlord, the outstanding rent and any other outstanding financial obligation of the tenancy,
 - (b) the tenant is taking other steps which, in the opinion of the landlord, are likely to result in the payment to the landlord within a reasonable time of—
 - (i) the outstanding rent, and
 - (ii) any other outstanding financial obligation of the tenancy, or
 - (c) the tenant is complying with the terms of a plan agreed to in accordance with subsection (5).
- (7) The landlord, unless it is a local authority landlord, must encourage the tenant to contact the local authority in whose area the house is situated.
- (8) In complying with the pre-action requirements the landlord must have regard to any guidance issued by the Scottish Ministers.
- (9) The Scottish Ministers may by order make further provision about the pre-action requirements, including provision—
 - (a) specifying particular steps to be taken, or not to be taken, by a landlord in complying with any requirement;

- (b) modifying or removing any requirement.
- (10) In this section, “housing benefit” has the same meaning as in section 123 of the Social Security Contributions and Benefits Act 1992 (c.4).”