

## Pentland Housing Group

<b>Document Type</b> (Policy/Protocol/Procedure)	Policy
<b>No</b>	O02
<b>Name</b>	PHA Rent Arrears Policy
<b>Group</b>	Pentland Housing Association
<b>Type</b>	Operational
<b>Lead Body</b>	PHA Board
<b>Manager</b>	Senior Housing Officer
<b>Version</b>	11
<b>Original Authorisation by PHA Board</b>	February 1995
<b>Previous Authorised by PHA Board</b>	June 2013
<b>Latest Authorised by PHA Board</b>	8 February 2017
<b>Review Due Date</b>	February 2022
<b>Reviewed by PHA Board</b>	8 February 2017
<b>Consultation</b> (Staff) (SC/AC/HSC) (PCE/PEA)	Staff
<b>Electronic Storage</b>	N:\PHG\Policies Procedures Protocols etc\5 Operational\Operational Policies
<b>Website</b>	Yes
<b>Secure Area of Website</b>	No

## **Pentland Housing Association Ltd PHA Rent Arrears Policy**

### **1. Aims**

- 1.1 Pentland Housing Association is committed to the provision of affordable, rented housing and endeavours to ensure that rent levels should not exclude any individual from applying for housing with the Association.
- 1.2 The Association recognises the importance of effective rent arrears prevention management and recovery and aims to minimise the level of rent arrears whilst also being sensitive to the individual circumstances of those (tenants and sharing owners) in arrears.
- 1.3 The Association is also committed to ensuring that all tenants are given every opportunity to sustain their tenancy. Tenants who persistently and/or willingly withhold rent or other payments due to the Association will be subject to the Arrears Policy.
- 1.4 The Association's aim is for tenants to pay their rent in full and on time. As such, the Association will follow the main principles when implementing the Policy.
  - Prevention is the key to arrears control and the Association will ensure that measures are taken to minimise the risk of rent arrears in the first instance.
  - The Association will respond quickly to non-payment of rent and to requests for assistance when dealing with arrears.
  - The Association will adopt a supportive approach to those in arrears or those potentially facing arrears.
  - The Association will provide clear and understandable information and advice on rent payments and arrears control measures along with adequate reporting to allow staff and Committee to monitor the effectiveness of the rent arrears policy.
  - Assist in advice by way of signposting to partner agencies.
  - The Association will take all reasonable steps to recover rent arrears due.
  - The Association aims to ensure that rental loss due to arrears is kept to a minimum to safeguard the financial well-being of the Association.

## **2. Prevention of Arrears**

2.1 The Association will take the following steps in order to prevent arrears arising:

- When initially offering accommodation, the Association will clearly advise the applicant on the level of rent payable for the property and that housing benefit may be payable for all or part of their rent.
- The Association will include within the information pack for new tenants, clear information on rent payment methods, and the availability of housing benefit (an application form to be included) and recovery action that may be taken in the event of non-payment of rent.
- At the signing-up stage, the Association will ensure that the tenant is fully aware of and understands the information provided to them in respect of rent payment methods, housing benefit entitlement and recovery action.
- The new tenant will be strongly encouraged to have completed any benefit claims prior to sign up.

### **Payment Methods**

Tenants may choose their own method of payment but the Association will encourage the use of Direct Debit, Standing Orders and payment by cheque, card, telephone payment or in person. The Association will allow any frequency of payment provided the sum due for any one month is paid within that timescale.

### **Housing Benefit**

Assistance will be offered and given, if required, in the completion of housing benefit application forms (and tenants will be informed of the importance of forwarding the form to the Local Authority as quickly as possible). The need for the Association and other relevant bodies to be advised in the event of changes in circumstances will be highlighted during the signing-up process. Direct payments of Housing Benefit to the Association will be encouraged.

### **Recovery Action**

The importance of making regular payments of rent will be emphasised to the tenant and the recovery action options explained in detail. It will be pointed out that should problems arise, the tenant may be referred to other agencies for appropriate advice and information, including debt counsellors, money advice, and income maximisation.

- 2.2 New tenants will have their rent account closely monitored for early signs of difficulties and should they occur, a courtesy call will be made to offer advice and assistance in remedying any problems.
- 2.3 In the event that early arrears are identified and assistance is required, the Association will make every effort to liaise with other agencies, eg Social Work, Department of Work and Pensions, Citizens Advice Bureau, the Local Authority Housing Benefit Section and any welfare benefit advice available.
- 2.4 All tenants will be regularly reminded through all the appropriate channels, , to approach the Association and/or the Local Authority Housing Benefit Section in the event of changes in their circumstances.
- 2.5 Annual rent increases will be notified to tenants at the earliest implementation.
- 2.6 All staff will be easily contactable and accessible by telephone, e-mail, fax and letter. Personal visits may be arranged either at our office or to the tenant's home, if required, and if necessary out of hours appointments.
- 2.7 The Association will liaise closely with the appropriate agencies when problems arise with the payments of benefits.

### **3. Arrears Control**

- 3.1 The Association will ensure that the rent accounting system is accurate at all times and in the event of rent arrears happening; a firm approach will be adopted. The following procedures will be adhered to:
  - Rent accounts will be monitored fortnightly to identify potential new arrears cases.
  - Initial contact will be made by letter or personally as early as possible after falling into arrears, however not later than 7 days, showing clearly the balance of rent owing, requesting payment and suggesting that contact be made with our Housing Officer to discuss the situation if immediate payment cannot be made, and its potential for losing their home
  - If payment is not made within one month of the arrear accruing, a letter requesting payment within a designated timescale will be sent and advising legal action will be taken in the event on non-payment. The tenant will be encouraged to contact the Association in the first instance as well as the Benefit Agency and other appropriate advice agencies.

- If it is not possible for a tenant to repay the arrears in one payment, an individual payment plan will be agreed, taking into account a sum that can realistically be paid once all the relevant information is known. An Agreement to Pay will be made up which must be signed by both the tenant and the Housing Association. This will include details of the consequences of further non-payment. Checks that repayment arrangements are being adhered to will be carried out in the same frequency as the terms of the Agreement to Pay.

If the early action outlined above has not resulted in a reduction of arrears, consideration will be given to the use of other management actions to encourage repayment of arrears. Management actions may include the following as part of the allocations policy:

- Where a tenant is seeking a transfer and has arrears for more than 1/12<sup>th</sup> of the annual rent due and no reasonable arrangement has been agreed and maintained for three months or if the repayments are not continuing, no allocation will normally be made.
- Mutual exchange requests may be refused if any party to the exchange is in arrears and no reasonable arrangement has been agreed and maintained for three months or if the repayments are not continuing.
- Where the tenant also rents a garage or garage site, consideration will be given to terminating the garage or garage site let.
- Legal action will be undertaken when these steps have not resulted in a reduction in arrears, including cases where arrangements to pay arrears in instalments are frequently broken. Where a case has been referred to Social Work under the terms of the Housing and Social Work Good Practice Guidelines for Actions on Tenancy Matters, feedback will be obtained from them before the decision to proceed with legal action is made.
- After the “Notice” has been issued there is a period of 28 days before it becomes effective. It is then effective for 6 months during which time the Association can raise an action in the Sheriff Court for either repayment of the debt or repossession of the property. In general an action for recovery of possession and/or repayment of arrears will be sought, with a decree for payment by weekly or fortnightly instalments being the preferred outcome. However, as soon as an instalment arrangement imposed by a decree is broken, and the decrees includes recovery of possession, repossession will be sought immediately. Tenants will be notified by letter as soon as the decision is made to raise an action. Information on the implications to the tenant, such as cost of court expenses, and the possible loss of their home will be included in this letter.

- We will use all legal options open to use in the collection of arrears, such as arrestment of wages or bank accounts.
- However, no case will proceed to Court without every reasonable effort being made to interview the tenant(s). This will include one letter asking the tenant for a Pre-court interview and one visit to the house where the tenant knows in advance when the visit will be made. At this interview housing staff will ensure that the following areas have been addressed:
  - The tenants income has been checked.
  - Every attempt has been made to maximise the tenant's income by referring them, if agreeable, to an ~~the or another~~ appropriate agency such as the Citizens Advice Bureau for a benefits check or welfare benefit advice service.
  - If the tenant has multiple debts and issues around money management, referral to Money Advice or another appropriate agency.
  - The tenant is aware of all the implications of a decision to evict, including court expenses and potential loss of their home.
  - The tenant is made aware of external agencies such as the Citizens Advice Bureau who can give further independent advice and information regarding the legal process about to be pursued.
  - The tenant has been made aware of the potential implications of eviction relating to homelessness.
  - Any relevant information regarding vulnerability or possible support needs has been identified with the tenant.
  - If it is felt that the tenant requires support (or improved support where it already exists) to maintain their tenancy, especially around financial or benefit issues, appropriate liaison is made with the Supporting People Team.
  - Where there is current Social Work involvement or this appears necessary at this stage, no further action will be taken without consultation with Social Work as per the Housing and Social Work Good Practice Guidelines for Actions on Tenancy Matters. This may include a Childrens Act Assessment if appropriate.
- It is accepted that in rare cases it will not be possible to interview the tenant. In these cases, the attempts made and the cause of the failure to interview will be fully documented.

- Prior to court action, staff will liaise with our legal advisors and agree which type of decree they are applying for in Court.
- Even after legal action has started housing staff will continue to monitor all arrears cases, taking steps as appropriate to ensure recovery of the arrears. An arrangement may, in some circumstances, be accepted at any time and court action “sisted” while the repayment is monitored. Sisting a case in effect suspends the case while the repayments are made. If the repayments cease, court action will be continued immediately. Even once a decree which includes repossession is obtained, full or a substantial payment will be accepted in preference to proceeding with an eviction – except in very exceptional circumstances, such as persistent cases where payment is repeatedly made at the last minute prior to repossession.
- A Pre-Eviction interview will take place with all tenants prior to the final decision on eviction being taken. At this interview housing staff will again make clear all the implications of a decision to evict and obtain any new relevant information from the tenant regarding their household and any vulnerability or possible support needs. It is accepted that in rare cases it will not be possible to interview the tenant, the attempts made and the cause of the failure to interview will be fully documented. Where Social Work involvement is declared or is apparently necessary at this stage, and was not previously identified, no further action will be taken without consultation with Social Work Services under the terms of the Housing and Social Work Good Practice Guidelines for Actions on Tenancy Matters. However, the timetable set by the eviction process must be adhered to. The implications of eviction and details about the homelessness legislation will be again be highlighted at this interview.
- An eviction will only take place with the prior agreement of the Service Director who will consider information regarding the history of the arrears and the action taken, including any feedback from Social Work or any other appropriate agency where the case was referred to them at the earlier stage. Once the decision has been taken to proceed with eviction this will be notified to the tenant, the appropriate officers dealing with homelessness and Social Work if appropriate
- Progress made in the payment of rent arrears will be closely monitored and all correspondence and records of telephone calls and visits will be kept in the tenant’s file. Where tenants fail to respond to correspondence, telephone calls will be made, if appropriate, to attempt to resolve the situation. Home visits will also be made before any case proceeds to court.

- The Housing Officer will continue to liaise with other agencies, where applicable, particularly the Benefit Agencies and other appropriate advice agencies.
- We will not normally evict tenants whose rent arrears are solely due to the under-occupation charge being applied and where the tenant is able to demonstrate that they are doing everything possible to alleviate the problem. In line with all arrears cases which proceed to court for eviction any case being considered for such action will require approval from the Operations Manager.

#### **4. Legal Action**

4.1 Where a tenant persistently fails to pay rent and/or has broken individual payment plans, then legal action will be instigated. The decision to commence legal action will be taken by the Operations Manager only when no alternative action is available or appropriate and all avenues have been exhausted.

4.2 The following procedures will apply:

- A Notice of Seeking Possession under the Housing (Scotland) Act 2001 which gives a minimum of four weeks' notice of court action will be served by Recorded Delivery post.
- Where the serving of a Notice has not resulted in an adequate reduction in arrears or agreed action to reduce the arrears, a letter will be sent to the tenant advising them that the matter will now be dealt with by the Association's solicitor, advising them of their liability for any court fees and costs incurred.
- The Housing Officer will prepare the necessary paperwork and pass to the Association's solicitor for legal proceedings to be instigated. A Decree for payment and repossession will be sought in court. The Housing Officer will liaise with the solicitors to ensure that all necessary information is available for the Court hearing.
- During all stages of legal action, the tenant will be advised of the Association's intentions and of the outcomes and consequences of successful legal action by the Association. Where possible, staff will continue to advise the tenant to seek independent help and advice.



- A “Fast Track” process will be applied to tenants who fall into arrears of rent within 12 months of earlier court action. Instead of receiving a first and second reminder, the tenants will only receive one written letter before being issued with a Notice. As soon as the Notice becomes effective, the case will – unless the tenants have paid or made arrangements to pay – be referred to our Legal advisors for court action to commence. Tenants who pay their arrears in full as a result of court action, or who make a mutually agreeable arrangement will be notified of their “Fast Track” status as soon as legal action is cancelled. If they maintain a clear rent account for 12 months, they will revert to the standard arrears policy.
- In the event of an eviction, a Sheriff Officer will be engaged to enforce the Decree. Also in attendance should be a Housing Officer and a selected contractor. If appropriate, other agencies such as the Police and the Social Services may also be asked to be present.

## **5. Monitoring**

5.1 The Board will receive reports on rent arrears as follows:

- The overall total of arrears and expressed as a percentage of rents receivable. (quarterly)
- A breakdown of arrears over £1000. (annually)
- The overall total of former tenant arrears. (quarterly)
- The overall total of any former tenant arrears written off. (annually)
- Trends and patterns emerging on rent arrears. (quarterly)

5.2 The Board will receive an annual report on the comparison between the arrears level and the targets set, and will receive an end of year summary together with performance against peers.

## **6. Targets**

6.1 Targets in respect of rent arrears will be set annually within the Association’s Business and Internal Management Plan.

## **7. Policy Review**

7.1 The policy will be reviewed every 5 years unless amendment is prompted by a change in legislation reveals that a change is required sooner.

Version 10 June 2013  
Version 11 February 2017