



# **Income Collection and Arrears Policy (Tenants)**

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## **Introduction**

The purpose of this Policy is to ensure that all reasonable steps are taken by Empower Housing Association (EHA) to collect income due and minimise the level of rent arrears and other debts owed. EHA relies on its rental income to provide services and improve and maintain our housing stock and the effective collection of rent and any arrears is essential.

EHA expects its tenants to take responsibility for ensuring rent and any other charges due are paid regularly and on time. A payment culture will be promoted, and EHA will make it as easy as possible for tenants to pay their rent.

It is EHA's view that tenants do not deliberately fall into rent arrears, but appreciates that for those with limited income, rent is one of several outgoings an individual may be struggling to pay.

## **Scope of the Policy**

- To provide clear guidance for EHA's Rents Team and tenants on the way in which we expect rent to be paid and arrears and debt to be collected regardless of tenure type
- Ensure consistency of policy and procedure implementation
- Reinforces an approach which is systematic but flexible
- To make sure all possible advice, assistance and sensitive consideration is given to any specific circumstances causing financial difficulties for tenants, and to ensure a system is in place to make referrals to external advice agencies where appropriate.
- To ensure tenants\* are assisted in claiming Housing Benefit (HB) and retaining ownership of their claim with the support of EHA

## **Policy Statement**

### **Methods of Payment**

The payment of rent and other charges remains the sole responsibility of the tenant. and rent can be paid:

- By Standing Order
- Direct payments from Housing Benefit
- Bank transfer

### **Prevention of Rent Arrears**

EHA will take a preventative approach including early intervention, tailored to the needs of the tenant\*. All communication, including letters, telephone conversations and visits will be as clear and easy to understand as possible. EHA will provide information on rent and arrears in the following ways:

- Pre-tenancy communications and visits
- Tenancy Agreement and sign-up discussions
- Performance Review Checks (PRCs)
- Newsletters
- Letters

- Phone calls
- Emails
- Home/office visits

EHA will:

- Give prospective tenants\*, clear and detailed information on rent/service charges/other charges for any property they are offered and the responsibility to pay the weekly rent.
- Ensure tenants are aware of the serious consequences of non-payment in relation to the tenancy.
- Highlight to tenants the link between rental income collection and EHA's ability to deliver a high-quality service.
- Provide tenants with statements of their rent account and enclose a copy with every arrear letter.
- Ensure tenants are kept informed about any changes to benefits they rely on to help pay their rent.
- Assist the tenant by collecting supporting information and complete HB or Change of Circumstances claims on the tenant's behalf where applicable and make sure these are submitted to the relevant Local Authority for processing in a timely manner.
- Liaise with Local Authority HB Departments to ensure that payments of rent are prompt and accurate.
- Notify and consult tenants in advance of any alterations in rent and services charges in line with the requirements of the tenancy agreement
- Ensure tenants who fall into arrears are contacted immediately and by the most appropriate means for the individual including contacting their representative/advocate or legal appointee.

### **Housing Benefit Supporting Information**

EHA will support the tenant in their claim for HB, including specific information to be provided, usually at sign up, to the Rents Team in order for an HB claim to be submitted for processing as detailed within the Income and Arrears Recovery Procedure.

### **Rent Arrears Recovery Process**

The Rents Team will adopt a firm but sensitive approach to rent arrears recovery.

Rent accounts will be monitored on a weekly basis to identify non-payment of rent at an early stage and take prompt action to contact tenants. The Rents Team will take into consideration benefit payments, backdates and first benefit payments and any potential delays in payment.

Any tenant falling into arrears will receive prompt notification from EHA in line with the Income and Arrears Recovery Procedure. It is the tenant's responsibility to notify EHA of any changes in their circumstances which could impact on their ability to maintain a clear rent account, and this will be made clear from tenancy commencement.

Tenants must make sure that any delays in payment of HB are kept to a minimum, by providing the HB department with information when requested. EHA will support the tenant wherever possible to provide this information and avoid any delays.

EHA's Rents Team will follow the Income and Arrears Recovery Procedure for managing rent arrears as below:

- Week 1– Reminder Arrears letter (AL1)
- Repayment Agreement Confirmation (AL1a)
- Week 3 – Overdue Payment letter (AL2)
- Week 4 – Urgent Action Needed letter (AL3)
- Week 5– Overdue Payment Final Reminder letter (AL4)
- Week 7 – Notice of Seeking Possession letter and notice (AL5)
- Issue of Possession Proceedings
- Issue of Warrant of Possession

At each stage of the arrears recovery process, EHA will make direct personal contact with the tenant including home visits giving them the opportunity to pay the arrears or make an arrangement to pay or provide any other support required – every contact will be recorded on SDM (housing management system).

EHA will not proceed with legal action if an agreed repayment plan is being adhered to nor will EHA place the tenant in a position of financial hardship as a result of an unrealistic repayment agreement.

### **Legal Action**

Before starting legal action, EHA will:

- Continue to make every effort to contact the tenant to give them a final opportunity to pay the arrears or make an arrangement to pay. All communication will be recorded on SDM
- Make every reasonable effort to give help and advice on any eligibility for HB or support to pursue any backdates.
- Consider the likely result of any application for HB that has not yet been decided. Legal action will not be considered if a pending HB claim is likely to clear the rent account or reduce the arrears to an acceptable level to EHA and a repayment agreement to be made.
- Make every effort to agree an affordable and realistic payment plan to pay arrears of rent having regard to the tenant's income and outgoings.
- Expect low level debts to be cleared in a single payment and will agree to instalments on a case-by-case basis based on the tenant's ability to pay.
- Consider whether the tenant is complying with the terms of an agreed plan.

Due to the vulnerability and needs of EHA's tenants, certain recovery actions may not be appropriate. It is therefore important all relevant facts are taken into consideration and that all appropriate agencies are involved. Legal action will only be considered where all other avenues have been exhausted and all efforts to work with the tenant have proved unsuccessful.

Where necessary and where all aspects of the recovery procedure have been followed EHA will serve a Notice of Seeking Possession in accordance with its procedure to recover rent arrears and as a pre-requisite to issuing possession proceedings.

Approval to serve a Notice of Seeking Possession for rent arrears must be given by the Operations Director /Chief Executive Officer.

### **Possession Proceedings**

EHA will seek legal advice in respect of issuing possession proceedings where there has been a failure by the tenant\* to engage and pay outstanding arrears or make a suitable arrangement for repayment.

EHA will ensure all requirements of the Pre Action-Protocol for possession claims by social landlords has been adhered to which includes:

- Providing ongoing attempts to contact the tenant\*
- Ongoing liaison with the HB department in relation to any outstanding payments due
- Advising the tenant\* to seek assistance from Citizens Advice Bureaux, debt advice agencies or other appropriate agencies as soon as possible.

Where legal action is proceeding for recovery of possession, EHA will inform the tenant's representative, as well as the tenant, to ensure they receive the necessary support and advice.

After legal action has commenced, EHA, will continue to make attempts to contact the tenant\* to support them to make a repayment arrangement before further legal action is progressed including eviction.

The types of order which may be made by the Court include an outright possession order where possession of the property is ordered to be given to the landlord on a specific date. A suspended possession order can also be made where an order for possession will be made which is suspended on condition that the tenant pays the weekly rent and an additional weekly amount to clear the arrears.

### **Eviction**

The Rents Team will do all they can to avoid eviction including offering ongoing advice, consider whether vulnerability is a factor for non-payment, and make referrals to advice providers or support services.

If the tenant fails to adhere to the terms of a suspended possession order a warrant for enforcement of the possession order and eviction of the tenant will be sought.

If an outright possession order has been sought and the tenant has not vacated the property a warrant for enforcement of the possession order will be sought.

A representative from EHA will attend the property where there is an eviction scheduled.

At all times throughout the process ongoing attempts to contact the tenant\* will be made and referral to the relevant advice services to support made.

Approval of the Chief Executive Officer is required to make any application for enforcement of a possession order.

### **Housing Benefit Overpayments**

Serious arrears can be caused by the over payment and subsequent clawback of HB when a tenant's circumstances change, or they fail to complete a Housing Benefit Application Review Form on time. Tenants\* will therefore be advised to inform HB of any changes to their household or income. They will also be informed of the importance in returning Benefit Review Forms.

Overpayments of HB will be refunded to the relevant Local Authority once they have been investigated by the Rents Team to determine the cause. Where the overpayment is the responsibility of the tenant, they will be notified, and EHA will seek to recover the shortfall directly from the tenant.

Where possible a direct deduction will be requested from the tenant's benefits to pay off the debt owed.

### **Recharges**

Recharges include repairs for which the tenant is required to pay which have been completed by EHA. The tenant\* will be notified in writing of any debts payable and records of these debts will be recorded on SDM, and the relevant invoice will be issued for payment.

Where payments are received rent arrears will be prioritised over recharge payments, and where there are no arrears outstanding the recharge debt will be pursued in line with the Recharge Procedure. EHA outlines the repairs that are rechargeable within the terms of the tenancy agreement.

### **Former Tenants**

Where a tenant terminates their tenancy and is in rent arrears, they will be asked to clear the debt prior to the termination date. If they are unable to do so, the Rents Team will make reasonable attempts to enter into an agreement with the tenant\* which is affordable. Non payment of any debt may affect consideration for the future provision of housing services.

If a tenancy ends without communication from the tenant\*, or an arrangement to pay is not made, appropriate action will be taken to recover all outstanding debt in line with the Income and Arrears Recovery Procedure.

After a tenant has left, the payments should continue to be monitored as they would with an existing tenancy, with missed payments addressed quickly.

Arrears attributable to HB will be pursued by the Rents Team directly with the Local Authority.

Former tenant rent arrears will be pursued prior to seeking approval for a write off in line with the write off procedure within the Income and Arrears Recovery Procedure.

### **Write Offs**

Write offs will not be made from current tenant accounts

There may be occasions when arrears of rent on former tenant accounts or recharge debts are in a sum which makes them uneconomical to recover or the whereabouts of a former tenant is unknown.

The Housing Services Manager will consider whether it is economical to continue to pursue the debt and will provide a report to the Chief Executive Officer for approval for debt write off.

Criteria for write off of arrears is:

- Amounts owed by people who have died and cannot be recovered from their estate
- Amounts confirmed in a bankruptcy case (trust deed or similar)
- Balances under £100 where no payments have been received or contact made following first and second reminder letters
- Trace action has been unsuccessful for former tenants
- Arrears included in a Debt Relief Order

As well as former tenant arrears balances, annual write off for former tenant credit balances will be actioned by crediting the write off to a tenant benefit fund. The credit criteria are:

- Housing Benefit is entitled to but has not made any reclaim 24 months after a tenancy has ended. *Note there is no specific timeframe for overpayment recovery therefore a reclaim could be made after this time*
- Tenant deceased with no estate or next of kin
- No forwarding address is known to issue a refund and trace has been unsuccessful

### **Credit Balances – Current Tenant accounts.**

The Rents Team will check credit balances every 6 months and having contacted the tenant, raise a refund request for any genuine credit, not technical, or advanced payment balances, which will be processed and refunded directly to the tenant. A credit balance in agreement with the tenant\* may be used to clear or pay towards outstanding balances e.g. rechargeable repairs.

Refund of any credit balances will be approved by the Operations Director.

### **Related Legislation, Regulation and Codes of Practice**

- The Housing Act 1988, amended 1996
- The Housing Act 1985
- The Equality Act 2010
- Welfare Reform Act 2012
- Localism Act 2011
- GDPR & Data Protection 2018
- Civil procedure Rules for Pre-action Protocol for Possession Claims for Rent Arrears
- Regulator of Social Housing Regulatory Standards
- Social Housing (Regulation) Act 2023

### **Related Policies, Procedures and Documents**

- Tenancy Agreement
- Reasonable Adjustments Policy (Tenants)
- Equality, Diversity and Inclusion Policy
- Application for Housing Policy
- Voids and Lettings Management Policy
- Income and Arrears Recovery Procedure
- Complaints and Feedback Policy
- Financial Regulations
- Recharge Procedure

### **Performance Monitoring and Reporting**

Key Performance Indicators (KPI) will be reported to Senior Management monthly and to Board on a quarterly basis to monitor performance against target and gain assurance that policies and procedures are effective. As a minimum these KPI measures will include reporting on:

- Rent collected as a percentage of total rent due for year
- Current and former tenant arrears percentage of total rent due for year
- Number of court actions which resulted in eviction
- Number of high-level arrears the levels which are determined as part of the business assurance reporting process

The targets will be challenging to support the financial health of the organisation and its' ability to best serve the interest of tenants and will be reviewed at least annually.

Performance information will be published in relation to rent arrears in the Annual Report and tenant's newsletters.

### **Policy Review**

The policy will be reviewed every three years (or sooner if there is a change in regulation, legislation or codes of practice).