



Policy for Current and Former Tenant Rent Arrears

Version 1.3

Version Control

Number	Date	Comment
1.0	6 November 2013	Approved by Housing and Health Committee
1.1	10 April 2015	Amended for factual reference error
1.2	27 August 2015	Amended following approval by Housing and Health Committee
1.3	29 September 2016	Amended for approval by Housing and Health Committee
1.3	2 November 2016	Approved by Housing and Health Committee

Revisions

Date	Status	Existing Policy
27 August 2015	Reason for amendments	To ensure that there is a consistent, clear and firm approach to rent collection and rent arrears by the Housing Service
	Key Points and amendments	Section 6.10 to 6.13 – Enhancements to Technical Evictions (Already approved in report 15/343)
	Next Steps	Implementation of amended policy in November 2015
29 September 2016	Reason for amendments	To strengthen the approach to rent collection and rent arrears by the Housing Service
	Key Points and Amendments	Appendix 1 – Procedure for writing off Debt – Amendments to Write Off (Recommended within Committee report)
	Next Steps	Implementation of amended policy following Committee approval

Introduction

This document outlines Perth and Kinross Council's (the Council) policy for managing current and former tenant rent arrears. The policy will assist the Council to meet its strategic objectives within the Corporate Plan, Business Management Improvement Plan and Neighbourhood Services and Homeless Strategy with a particular focus in helping promote tenancy sustainability, maximising income for both the Council and its tenants and preventing homelessness.

The Council recognises that maximising the collection of rent is of major importance as it directly affects the services that tenants can receive and resources available to invest in their homes. Rental income pays for the management of the Council's housing stock and its surrounding environment and the maintenance and improvement of homes to meet the Scottish Housing Quality Standard. Rental income is also invested in the building of new, modern and energy efficient homes.

Whilst the Council must ensure that it maximises rental income, it must also recognise the needs of its tenants. Advice, assistance and support will be offered to tenants who have genuine difficulties in paying rent or other debts owed to the Council. However early and decisive action will need to be taken against those tenants who refuse to engage.

1.0 Scope of the Policy

- 1.1 The purpose of this policy is to set out the activities and responsibilities involved in the management of rent accounts of both current and former tenants, including accounts with service charges and factoring charges where applicable.
- 1.2 The policy applies to all rented properties owned and managed by the Council through the Housing and Community Care Service.
- 1.3 Rent is charged on every tenanted property owned or managed by the Council and it is the responsibility of the tenant(s) to ensure the rent is paid. This responsibility is enshrined in the Scottish Secure and Scottish Short Secure Tenancy Agreements that all tenant(s) have signed to and agreed.
- 1.4 There are 5 associated procedures providing guidance on the collection of debts involving:
 - Current Tenants
 - Former Tenants
 - Court Action and Eviction
 - Arrears in Temporary Homeless Accommodation
 - Garage Sites/Lock-ups
- 1.5 This rent arrears policy complies with the Council's financial regulations.

2. Aims

2.1 The primary aims of this policy are to:

- Maximise the collection of rent due to the Council
- Prevent arrears from arising
- Ensure relevant advice, support and assistance is available to tenants
- Act early and timeously in the collection of rent and arrears
- Work with internal services and external agencies to ensure that tenants can access services to support the sustainment of tenancies.
- To avoid the use of legal action and evictions to control rent arrears unless all attempts to address the debt have failed.

2.2 Other Aims include:

- Prevention of Homelessness
- Ensure appropriate education of tenants on the impacts of Welfare Reform and Universal Credit.
- Increased engagement between the Council and its current and future tenants.

2.3 To achieve the aims this Policy will ensure:

- The pursuance and collection of rent arrears is undertaken in a fair, open and transparent manner
- Existing working relationships with advice and support agencies such as CAB, Welfare Rights and PKCU are developed to provide good quality information and advice
- The Council will identify gaps in the availability of information and advice and actively seeks out new partnerships and relationships with agencies to promote access to advice and services for the benefit of tenants.
- All staff involved in the collection of rent and arrears and in the allocation of tenancies are trained in the prevention and collection of rent arrears.
- All communication with tenants is in plain, easy to understand language that is clear and concise, and free from jargon. Correspondence will also provide useful information and advice on accessing advice and assistance and also give the name and contact details of the person issuing the letter. Tenants who engage with the council in the addressing of rent arrears receive the support and assistance required to sustain their tenancy.
- Processes conform to current legislation and best practice and are adaptable to change in light of future legislative changes and the introduction of Welfare Reform.

2.4 The procedures for the prevention and collection of rent and service charges will be reviewed regularly to ensure they are current and responsive to the needs of both tenants and the council.

3 Legislative Framework

3.1 The council will ensure that this policy and relevant procedures comply with all legislative and good practice requirements in minimising rent arrears. This includes the following:-

3.1.1 Housing (Scotland) Act 2001

The Tenancy Agreement

It is the responsibility of the council to enforce the terms of the Scottish Secure Tenancy (SST) and the Short Scottish Secure Tenancy (SSST) Agreements held by tenants to protect the interests of the Council and to assist with tenancy sustainability. In particular Section 1.5.1 which says:

“The rent is £<Rent>, payable weekly in advance on or before the first day of each rental period.”

Legal Action

Where legal/recovery action is taken to recover arrears, we will comply with the relevant legislation held within the (Housing Scotland) Act 2001.

3.1.2 The Data Protection Act 1998

The information we hold and access on any tenant, qualifying occupier or household member must be in full compliance with the Data Protection Act 1998.

3.1.3 Matrimonial Homes (Family Protection) (Scotland) Act 1981

We will comply with the terms of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 when providing advice on the occupancy rights to people whose home is at risk due to eviction.

3.1.4 The Housing (Scotland) Act 1987 as amended by the Homelessness etc (Scotland) Act 2003

We will comply with the Housing (Scotland) Act 1987 and the Homelessness etc. (Scotland) Act 2003 when providing advice to people whose home is at risk due to eviction.

3.1.5 The Debt Arrangement and Attachment (Scotland) Act 2002

The council will comply with the requirements of the Debt Arrangement and Attachment (Scotland) Act 2002 with regards to tenants seeking to address debts and seeking sequestrations, trust deeds and other formal debt arrangements.

3.1.6 **Housing (Scotland) Act 2010**

Pre-Action Requirements

We will abide by the Pre-Action regulations, as brought into force in August 2012 to ensure that prior to any legal action being taken (including the service of a Notice of Proceedings for Recovery of Possession), adequate attempts to contact tenants and resolve arrears have been made.

3.1.7 **The Scottish Social Housing Charter**

As required by Section 31 of the Housing (Scotland) Act 2010, the Scottish Ministers, in the Scottish Social Housing Charter, set the standards and outcomes that all social landlords should aim to achieve when performing their housing activities. This policy reflects the Council's commitment to the Charter, specifically:

Outcome 1 – Equalities

Social landlords perform all aspects of their housing services so that every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services

Outcome 2 – Communication

Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides

Outcome 9 – Housing Options

Social landlords ensure that people at risk of losing their homes get advice on preventing homelessness

Outcome 11 – Tenancy Sustainment

Social landlords ensure that tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations

Outcome 13 – Value for Money

Social landlords manage all aspects of their businesses so that tenants, owners and other customer receive services that provide continually improving value for the rent and other charges they pay

Outcomes 14 & 15 – Rents and Service Charges

Social landlords set rents and service charges in consultation with their tenants and other customers so that a balance is struck between the level of services provided, the cost of the services, and how far current and prospective tenants and other customers can afford them; and tenants get clear information on how rent and other money is spent, including any details of individual items of expenditure above thresholds agreed between landlords and tenants

4. Responsibilities

Both the landlord and tenant responsibilities are detailed within the terms of the Scottish Secure and Short Scottish Secure Tenancy Agreement as provided for in the Housing (Scotland) Act, 2001.

Under the terms of these Agreements, it is the tenant(s)' responsibility to ensure all rent due is paid on a weekly based in advance or on the 1st day of each payment period.

Tenant(s) Responsibilities

- 4.1.2 Where any tenant has applied for or is in receipt of Housing Benefit, the responsibility to pay rent remains, and the tenant(s) has the responsibility to ensure payment is made from Housing Benefit.
- 4.1.3 Under the provisions of Universal Credit, it remains the responsibility of any tenant to ensure their claim is submitted and evidenced and also that any payments made for Housing Costs are paid timeously to the Council.
- 4.1.4 It is the tenant(s) responsibility to make the Council aware of any change in their circumstances that may affect their ability to pay to allow the relevant support and advice to be given to prevent arrears accruing.
- 4.1.5 The Council offer a range of payment methods for rent and it is a tenants choice which method they choses to use. The council will encourage tenants to pay by Direct Debit where this method is appropriate.

The available payment methods are:

- Direct Debit payable weekly, fortnightly, 4 weekly or monthly
- Standing Order payable weekly, fortnightly, 4 weekly or monthly
- Post – Cheques (we will not encourage cash being mailed)
- Paypoint Outlet – Tenants will be able to use their Allpay card to pay rent at any shop or outlet advertising Paypoint
- Credit/Debit Card – The council accepts debit and credit card payments either in the office, over the phone or via the councils website or allpay.net
- Cash – Payable to any of the cash offices.
- Allpay App – ability for tenants to pay using an application available through their smartphone

4.2 Perth and Kinross Council Responsibilities

Prevention

The fundamental aim of the Council is to prevent arrears from arising in the first instance. This Policy underpinned by our procedures, ensures that our tenants are provided with advice and assistance prior to and throughout their tenancy.

To achieve this, the Council will:

- 4.2.1 Use appropriate preventative measures to avoid debt accruing including the provision of advice and assistance to prospective tenants before tenancies commence and to focus the payment of rent as a priority including pre-tenancy interviews.
- 4.2.2 Promote a positive payment culture by ensuring that tenants are aware of their obligation to pay rent and request payment in advance at the commencement of the tenancy.
- 4.2.3 Support tenants who are to claim Housing Benefit to submit an e-claim to ensure that where successful the claim is paid.
- 4.2.4 Where tenancy support has been identified ensure this is put in place and the role of the support includes the importance of paying rent.
- 4.2.5 Make tenants aware of the consequences of not paying rent and the agencies that are available to support and assist with debt and income advice.
- 4.2.6 Referrals will be made to Welfare Rights for involvement and with the express consent of the tenant to CAB or PKCU

Early Intervention

The Council recognises the need to intervene early and respond to arrears as early as possible so as to ensure that support is provided to tenants. This approach allows both the Council and our tenants the opportunity to address the debt before it becomes unmanageable and ensure that the appropriate level of support is provided.

The Council will:

- 4.2.7 Follow up all new tenancies with a settling in visit within the first 5 working days of the tenancy. Where a tenant is found to be vulnerable, further follow up visits may be required
- 4.2.8 Where tenancy support has been put in place ensure that this is effective and continues to include the importance of paying rent.

- 4.2.9 Make best use of personal contact especially during the early stages of the tenancy and at the first indication of debt. Targeting personal contact should increase engagement between tenants and the council and make it easier for tenants to identify the need for and request help.
- 4.2.10 Ensure that where there is a change in a tenant's circumstances that they are supported where appropriate to notify Housing Benefits
- 4.2.11 Make tenants aware of the consequences of not paying rent and the agencies that are available to support and assist with debt and income advice.
- 4.2.12 Make referrals to Welfare Rights for involvement and with the express consent of the tenant to CAB or PKCU.

Communication

The importance of how we communicate with our tenants from prevention through to legal action is key in ensuring that we establish a tenant/landlord relationship where our tenants are able to feel supported and encouraged to engage with us.

In order to achieve this, the Council will:

- 4.2.13 Ensure that we communicate with tenants using their preferred method wherever possible
- 4.2.14 Provide all new and existing tenants with information on any Welfare Reform changes which may impact on them
- 4.2.15 Provide regular updates and reminders on the importance of payment rent through for example Tenants newsletters, community events and leaflets.
- 4.2.16 Ensure that all correspondence around paying rent and rent arrears will be produced in a clearly understandable format and made available in alternative formats and languages as required.

5 Recovery of Current Rent Arrears

Where rent arrears occur it is important that the Council acts quickly and follows a process which allows for continued engagement with our tenants but at the same time takes a firm approach which supports the evidence required should further legal action be needed.

- 5.1 Rent accounts will be reviewed on a daily basis to identify any tenant who is one clear week in arrears to allow for early contact and intervention.
- 5.2 Our associated procedures ensure a clear and precise process of escalated actions to support early intervention.

- 5.3 The process promotes the use of internal and external information and advice agencies and provides ample opportunity for tenants to engage with support and advice to resolve any debt problems they have.
- 5.4 Tenant Interview forms, income and expenditure assessments and Repayment Agreement forms are standardised within the arrears collection procedure and should be used in all tenant contact as appropriate.
- 5.5 Records of all tenant contact will be maintained on the council's in-house system to ensure that all contact is accurately recorded and available for reference.

Repayment Arrangements

Where a tenant is unable to repay the full outstanding arrears balance then a repayment arrangement will be made with the tenant to repay the debt due over an agreed period of time.

- 5.6 Arrangements that have been agreed between tenants and the Council will be based upon the completion of an income and expenditure assessment to ensure they are affordable and therefore sustainable for the tenant.
- 5.7 Any agreement established will be confirmed in writing stating the agreed repayment, start date, payment method agreed and a proposed date that the arrears will be cleared.
- 5.8 Tenants will be asked to "sign up" to any repayment arrangement made, however verbal agreement by a tenant and the issue of the repayment agreement letter is sufficient to make a formal repayment arrangement.
- 5.9 Minimum repayment amounts will be based on the Rent Arrears Direct Payment set by the Department of Work and Pensions (DWP). Discussions will take place with individual tenants around the level of additional payment which they can make following the completion of the assessment outlined in Section 5.6 of this Policy.

*** (Under the Universal Credit regime Direct Payments will be based on a non-negotiable % of the benefit entitlement set at either 10 or 20%).*

- 5.10 A tenant will only be permitted to enter into and default on two repayment arrangements before further escalation will take place.

Pre-Court Action

Prior to considering legal action against a tenant the Council will take steps to ensure tenants are given a final opportunity to engage through what will be considered to be pre court action.

- 5.11 The service of a Notice of Proceedings (NOP) will only be considered once the Council is satisfied that the PARS have been met, including the

adherence of the rent arrears procedure and at least 2 attempts at personal contact (including one home visit).

6 Legal Action

Court action will only ever be pursued as a final resort and never entered into lightly. The Council will consider the impact of the addition of court costs and the potential of a loss of tenancy before approval is sought.

As a consequence the Policy ensures that:

- 6.2 Approval for court is granted by the Team Leader – Income Maximisation and will only be given where the process for the prevention and collection of rent arrears has been followed.
- 6.3 The Council will not automatically request Decree for Ejection at court if the tenant has made and is maintaining a repayment agreement prior to the hearing date.
- 6.4 Alternative outcomes will be sought at court as appropriate and include Decree for arrears and costs only, where the tenant is working and the application for an earnings arrestment is likely to be successful.
- 6.5 Where Decree for Ejection is granted by the court the Council will take action on this with 6 months of extract to ensure the action is not lost. Ejection action will be taken against tenants who refuse to engage and address rent arrears.
- 6.6 If the arrears detailed on the Decree plus any associated court costs are paid in full prior to the Decree being enforced, then permission will be sought to cancel the ejection.

Eviction

- 6.7 The Council will only consider evicting a tenant as a last resort and as such Senior Managers within the Housing Management Team will authorise the passing or cancellation of a Decree to the Council's Sheriff Officers for enforcement.
- 6.8 Where a known vulnerability is identified within the household and decree has been obtained, consideration will be given to authorising a "Technical Eviction".

Technical Eviction

- 6.9 While eviction will see the tenancy being ended and Decree for removing enforced tenants may be made one offer of suitable alternative accommodation on the basis of a Short Scottish Secure Tenancy (SSST), with support, for a maximum period of 12 months. In exceptional circumstances however the tenant may be allowed to remain in the property with a new SSST being offered.
- 6.10 Where the offer of accommodation is refused and the arrears remain unpaid, no further offers will be made and a full eviction will take place.
- 6.11 If the offer is accepted and the tenant engages with support for the duration of the tenancy and there are no further breaches, after a period of twelve months a Scottish Secure Tenancy may be offered
- 6.12 Where a tenant fails to engage with support and breaches of tenancy occur including rent arrears, the council will bring the SSST to an end and apply to the court for a Decree for Ejection.

7 Current Garage Site and Lock Up Arrears

- 7.1 All arrears for garage sites or lock ups will be pursued in accordance with the staged escalation as set out in the Garage Site and Lock Up Arrears Procedure
- 7.2 Where a debt remains unpaid despite the procedure being followed, the council will take action to terminate the lease and recover the lock up or garage site with assistance from the Council's Legal Department.

8 Former Tenant Rent Arrears

- 8.1 Through the prevention and early intervention on rent arrears the council will mitigate against the level of former tenant rent arrears that are left by terminating tenants.
- 8.2 Where an arrears balance is identified prior to the end of a tenancy, the council will make attempts to contact the tenant and advise of the need to pay the debt prior to the termination.
- 8.3 Contact attempts will be made via telephone call, letters and where practical through home visits.
- 8.4 Former tenants will have the opportunity to set up repayment arrangements to clear outstanding debts as outlined in Section 5.6 to 5.10 of this Policy.
- 8.5 Where a former tenants forwarding address is not known, previous contact attempts have failed or they are not maintaining their arrangement, consideration will be made to passing the case to a Debt Recovery Agency.

This consideration will be based on the level of the debt and whether we have a known forwarding address.

- 8.6 Where the value of debt is considered to be uneconomical to collect then consideration will be given to seeking approval to write off the debt.
- 8.7 Write offs are recommended for approval by the Team Leader – Income Maximisation and passed to Senior Management Team for sign off. Final approval is obtained via the Strategic Policy and Resources Committee. Names and addresses of tenants must be removed prior to committee approval being sought. The procedure for writing off debt is outlined in Appendix 1 attached to this Policy

9. Welfare Reform

- 9.1 Perth and Kinross Council recognise the ongoing changes to the benefit system and the rollout of Universal Credit (UC) and the need to ensure our tenants are informed of changes and how these may impact them.
- 9.2 Housing Staff will be trained to provide basic advice on housing and other elements of UC, and have the support to make referrals to specialist advice through Welfare Rights and CAB.
- 9.3 It remains the responsibility of the tenant to ensure the full rent is paid, including tenants who may have a shortfall though the introduction of the Under Occupancy Charge, and those in receipt of Universal Credit.

10 Performance Monitoring and Review

- 10.1 Performance against targets on rent arrears is monitored through the Rent Arrears Performance Framework using both statutory and local performance indicators.
- 10.2 Targets in relation to the collection of rent and rent arrears are set by the Housing and Health Committee and are detailed within the BMIP.
- 10.3 The framework also reports on arrears performance in line with the current requirements of The Scottish Social Housing Charter.
- 10.4 The effective delivery of the outcomes of this Policy will be monitored internally through both our Housing and Senior Management Teams and existing formal mechanisms such as Key Monitoring and our BMIP.
- 10.5 Arrears performance is discussed as a standing item at all locality team meeting and at individual staff one to one meetings.
- 10.6 Fortnightly Scrutiny meetings will be held with attendance from Service Managers, Team Leaders and Co-ordinators across all localities. Reviewing accounts in arrears, complex cases and Dip Samples will be undertaken on a

regular basis by the Team Leader – Income Maximisation to review processes and to ensure compliance with the procedure.

11 Equal Opportunities

11.1 The Council is committed to equality of opportunity and will ensure that this Policy and procedures will not unfairly discriminate against people on the grounds of:

- Sex
- Marital status
- Race
- Disability
- Age
- Sexual orientation
- Language
- Social Origin
- Religion
- Political opinions

11.2 The Council will where required provide:

- Translation and interpretation for tenants whose first language is not English
- Sign language facilities for tenants who are profoundly deaf
- Large text or audio tapes for tenants who are visually impaired

12 Complaints

12.1 The Council operates a complaints procedure that is available to any tenant who is not satisfied with the way their case has been dealt with. Details of the Complaints Procedure are available on-line or at any Council office.

12.2 Tenants should exhaust the Council's complaints procedure before escalating the complaint to the Scottish Public Sector Ombudsman.

13 Consultation

13.1 The Council's procedure for consulting with tenants is held within the Tenant Participation Strategy.

13.2 The Council will consult with tenants and other services/agencies in order to continually develop good practice in the management of rent arrears.

14 Data Protection

14.1 All information held and accessed by The Council in the operation of this policy is in compliance with the Data Protection Act 1998.

15 Reviewing the Policy

This policy will be reviewed every 3 years or sooner if required by legislation or good practice.

Procedure for Writing-off Debt

Introduction

The Council's policy for rent arrears to be written off is to ensure every effort is made to recover all monies due from tenants or their representatives in a fair and reasonable way. Therefore, before any debt is considered for write off the Rent Arrears procedures for current and former tenant debts must have been followed.

The only exception to this is where a tenant is either sequestrated or enters into a Protected Trust Deed and where the Council can no longer legally pursue the debt.

It is the responsibility of the council to ensure that any debt identified for Write Off is processed promptly following completion of the procedures and approval granted.

Identification of Debts to be Written Off

Debts will only be considered for Write Off where at least one of the following criteria has been met:

- **Uneconomical to Collect**
Further action is uneconomical due to the level of the debt outstanding
- **Unable to Trace/Gone Away**
The debt has been passed to the contracted debt collection company, who have been unable to trace the debtor and it is their recommendation that the debt be written off.
- **Debt Prescribed**
The debt is too old to be recovered and barred by statute (i.e. 5 years have elapsed with no recovery action been taken)
- **Sequestration or Protected Trust Deed**
The debtor has been sequestrated or has entered into a Trust Deed and confirmation of this has been received by the Council
- **Tenant Deceased**
The debtor is the only person liable for the debt and has left no estate, or an inadequate estate to recover the debt from
- **Capacity**
The debtor has dementia or a severe learning difficulty or where the debtor has a terminal illness.
- **Financial Hardship/No Funds**
The debt has been passed to the contracted debt collection company, who have recommended that the debt be written off as the potential to recover the debt is negligible

Write-off Guidelines

Where any of the above criteria have been met the debt will be considered for Write Off. Collated analysis of this information is compiled by the Former Tenant Arrears Officer.

All cases for write off are passed on a monthly basis to the Team Leader (Income Maximisation) for approval in principle to be included in the future annual bad debt write-off provision.

Before any debt is approved in principle, the Team Leader (Income Maximisation) will ensure that the relevant procedure has been followed.

The information required to be detailed for writing off a debt includes

- The payment reference number
- The tenant's name
- The tenant's address
- The area/community
- The date tenancy terminated
- The value of the arrears
- The reason for write off

Whilst the arrears may be written off, very effort will be made to pursue the arrears if a forwarding address is located or if the individual applies to the Council for housing in the future.

All amounts written off by the Council will be classed as bad debt. All this debt is written off with the provision that should the tenant once again come to the attention of the Council, we will write the debt back on and pursue the account.

The only exceptions to a debt being written back onto the account are where:

- The debt was part of a Sequestration or Protected Trust Deed
- The debt is prescribed.

Formal Write Off Process

Perth and Kinross Council writes off all bad debt on an annual basis. A meeting of the Council's Strategic and Policy Review Committee, held during the June following the end of a financial year, considers and approves the balances for write-off.

At the end of each financial year, the Former Tenant Arrears Officer and the Team Leader (Income Maximisation) will provide the Service Manager (Letham and North) with a report containing an analysis of those accounts which have been deemed irrecoverable and recommended for write off.

The analysis on each report must show the following:

- Name, account number, and termination date for each account which has requested to be written-off.
- Total number and value being written-off by reason category and from which financial year.
- Identification of the balances to be written off due to sequestration.
- During this intervening time it is vital to record any discrepancies in the totals of any account once it has been forwarded to Principal Revenues Officer.

The report is submitted to the Head of Housing and Strategic Commissioning and the Senior Management Team (SMT) for approval.

The approved Write Offs will then be submitted for inclusion within the Council wide report presented to the Strategic Policy and Resources Committee for final approval.