



Arrears Prevention and Recovery Policy

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The information in this document is available in other languages or on tape/CD, in large print and also in Braille.

For details, contact the Association on 01236 457948 or e-mail: admin@abonhillha.org.uk

Regulatory Compliance	Standard 1 The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.
Financial Impact	Medium
Risk Assessment	Low

1. OBJECTIVES AND STRATEGY

This document describes the rent arrears policy of Abronhill Housing Association (“Abronhill”).

The prevention and effective management of rent arrears is essential for the following reasons:

- to enable the Association to maintain and improve its housing
- to prevent homelessness
- to provide the resources needed for service delivery
- to ensure the Association’s overall financial viability

The overriding objective of the arrears policy is to minimise rent arrears. We will do this by:

- helping tenants maximise their income and avoid getting into arrears by providing appropriate assistance, support and advice
- adopting an approach to arrears which is supportive and responsive to the tenant’s circumstance
- providing referrals to appropriate agencies if the tenant is experiencing financial issues.

The arrears policy and strategy consists of the following elements:

- Arrears prevention
- Arrears recovery, including legal action where this is required
- Effective communication with tenants at all times
- Defining the roles and responsibilities of our staff and Management Committee in implementing the arrears policy
- Managing former tenant arrears
- Monitoring the impact of our arrears policy and its implementation, to ensure that income received by the Association is maximised and that any scope for improving our performance is identified and acted upon.

2. LEGAL AND REGULATORY REQUIREMENTS

2.1 The Scottish Social Housing Charter

The Association’s activities are guided by the principles of the Scottish Social Housing Charter and this includes its approach to managing rent arrears.

The outcomes relating to Housing Options, Tenancy Sustainment and Value for Money have particular relevance to the prevention and management of rent arrears. The wording of the Charter is as noted below.

Outcomes 7, 8 & 9 – Housing Options

Social landlords work together to ensure that:

- people looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them
- tenants and people on housing lists can review their housing options.

Social landlords ensure that:

- people at risk of losing their homes get advice on preventing homelessness.

These outcomes cover landlords' duties to provide information to people looking for housing and advice for those at risk of becoming homeless. This could include providing housing 'health checks' for tenants and people on housing lists to help them review their options to move within the social housing sector or to another sector.

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.

This outcome covers how landlords on their own, or in partnership with others, can help tenants who may need support to maintain their tenancy. This includes tenants who may be at risk of falling into arrears with their rent, and tenants who may need their home adapted to cope with age, disability, or caring responsibilities.

Outcome 13 – Value for Money

Social landlords manage all aspects of their businesses so that:

- tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

This standard covers the efficient and effective management of services. It includes minimising the time houses are empty; managing arrears and all resources effectively; controlling costs; getting value out of contracts; giving better value for money by increasing the quality of services with minimum extra cost to tenants, owners and other customers; and involving tenants and other customers in monitoring and reviewing how landlords give value for money.

2.2 Legal Requirements

The arrears policy and its implementation will reflect Abronhill's statutory and contractual obligations. These include but are not limited to the following:

- The **Scottish Secure Tenancy** used by Abronhill describes the contractual obligation which tenants have to pay rent (and service charges, where applicable), and the required frequency of payment
- The **Housing (Scotland) Act 2001** includes guidance in relation to the recovery of possession of a tenancy when a tenant has breached the conditions of their tenancy agreement by accruing rent arrears.
- The **Homelessness etc. (Scotland) Act 2003** requires us to notify the local authority where we are raising proceedings to recover a house as a result of rent arrears.
- The **Housing (Scotland) Act 2010** sets the legal framework for any action by the Association to recover tenancies on the grounds of rent arrears. This includes the provision of clear information to tenants on their tenancy and arrears situation; direct provision of advice and assistance; provision of details about other sources of advice and information; agreeing reasonable repayment plans; and revised arrangements for when a Notice of Proceedings can be served.

The Association will ensure that it complies with all relevant statutory and contractual obligations towards tenants, in implementing its arrears policy. In return, we expect tenants to fulfill their obligations to pay rent and service charges which are due to the Association.

3. ARREARS PREVENTION

The cornerstone of our policy is **arrears prevention**.

The main methods we will use to prevent rent arrears are:

- our approach to rent-setting and rent collection.
- providing tenants with information and support.
- maintaining effective relationships with North Lanarkshire Council's Housing Benefit service & the Department of Work & Pensions (DWP).

3.1 Rent Setting and Collection

Abronhill's rents are reviewed annually. The Association aims to set rents to be affordable to people who are not in employment or are in low paid employment and to enable management and maintenance costs to be met. In conducting annual rent reviews, the Association will consider whether trends in rent arrears or other information indicate affordability problems.

The Association offers a variety of methods which tenants can use to pay rent and aims to make it as convenient as possible for tenants to make payments. Payment methods will be kept under review to ensure we continue to meet this aim. The Association does not accept cash payments at the Association office.

Tenants are required to pay their rent one month in advance on the 28th of each month, unless otherwise agreed with the Association. For example, it is possible for tenants to ask to pay rent weekly or fortnightly if this is more convenient for them, and will help them establish a regular payment pattern.

3.2 Information and Support for Tenants

Abronhill uses a variety of communication methods to support arrears prevention work. These include regular telephone calls, home visits, office interviews, information available from our office, and tenant newsletters.

In all of our correspondence and publications relating to rent and rent arrears, we will provide clear information, adapting the format as required to suit the needs of tenants. For example, we will make information available in different languages and formats, as required.

New Tenants

We will use tenancy sign-up interviews and other contact with new tenants to provide pre-tenancy assistance and advice about:

- what the rent and any service charges cover.
- the tenant's responsibility to pay.
- rent payment arrangements, i.e. methods and frequencies for payment, and how and when rents will be reviewed.
- eligibility for Housing Benefit, assistance with completing a Housing Benefit application form, and the importance of notifying any changes in household circumstances and responding to Housing Benefit reviews.
- eligibility for Universal Credit, assistance with making a UC claim online, and advice and assistance on managing the claimant's UC journal on an ongoing basis.
- other sources of information and advice regarding entitlement to benefits and money advice is offered through our Advice for Tenants and Residents project.(AFTAR). This service provides tenants access to fully trained advisors from the Citizen Advice Bureau. Appointments can be offered either in person at the Association's office or at a tenant's home.
- our rent arrears policy.

Sign-up meetings will also be used to:

- assess whether the tenant has any support requirements which would make referral to specialist support services or agencies desirable.
- seek tenant agreement to data protection waivers, to enable information sharing with North Lanarkshire Council's Housing Benefit service and other relevant agencies.

All new tenants will be provided with a settling-in visit within 6 weeks of the start of their tenancy. If settling-in visits identify potential problems with paying rent, housing staff will provide any relevant support and assistance and maintain regular contact with the tenant until the issue is settled.

Existing Tenants

Abronhill will use routine contact on tenancy matters to make all of its tenants aware periodically of:

- the importance of paying rent, and of contacting the Association at the earliest possible stage if difficulties in paying rent are being experienced
- Housing Benefit / Universal Credit eligibility criteria and application/review procedures
- our in-house welfare rights service and the local money advice service.

We will provide tenants with information about the Association's performance in arrears management (e.g. through our annual report). We will consult with tenants regarding annual rent reviews.

For individual tenants experiencing difficulty in paying their rent, housing staff will provide assistance with the completion of Housing Benefit or Universal Credit claims, and refer tenants to other agencies where appropriate. Staff will maintain personal contact wherever possible, since this is the key factor in managing rent arrears effectively. Our approach and standards relating to personal contact with tenants who have rent arrears are described at section 4 of this policy.

3.3 Benefit Claims and Administration

Many of Abronhill's tenants have low incomes and receive Housing Benefit or Universal Credit to cover all or part of their rent. Effective monitoring of Housing Benefit and Universal Credit claims and payments is therefore of critical importance to tenant's ability to pay their rent, and to the Association's finances.

Abronhill's housing will support tenants to submit Housing Benefit or Universal Credit claims accurately and within the required timescales.

The Association will seek to maintain positive working relationships with North Lanarkshire Council's Housing Benefit service, to ensure that processing and payment timescales are monitored, and that there is effective liaison on issues such as backdates and overpayments. We will also expect tenants to recognise their personal responsibility to notify the Housing Benefit service about changes in their circumstances and for returning review forms on time.

Likewise the Association will seek to maintain and strengthen working relationships with the DWP with regard to Universal Credit claims. Again we will also expect tenants to recognise their personal responsibility to notify the DWP about changes in their circumstances and to respond to requests for information on time.

4. ARREARS RECOVERY

4.1 Monitoring Rent Payments

The Association will respond promptly to non-payment of rent to prevent arrears from occurring or increasing.

The Association aims to ensure that all payments are credited to tenant's rent accounts within a maximum of 5 days of being received.

Rent accounts and the status of Housing Benefit and Universal Credit claims will be monitored by staff on a continuous basis.

4.2 Action in Response to Missed Payments

A member of the Housing Management Team will make personal contact or write to the tenant as soon as a payment is missed. In making contact with tenants and issuing letters, we will take account of whether tenants have agreed an alternative payment timescale with us, and/or the timing of approved Housing Benefit payments.

Unless an immediate payment and/or response is made, staff will try to make personal contact with the tenant (through interviews, home visits or by telephone) before the next rent payment is due, to establish the reasons for non-payment. All contacts or attempts at contact will be documented on our rent accounting system. We will endeavour to contact tenants by a variety of means, including letters, phone calls, e-mails, text messages and home visits.

Where it is impracticable for the tenant to clear the arrears in one payment, staff will negotiate an agreement to reduce the arrears in realistic and affordable instalments over a specific time period. During such negotiations, staff will take a firm but sensitive approach which considers all debts and factors affecting payments, in order that the tenant's ability to pay and to manage any debts is increased. Arrears interviews will include clear signposting to our Welfare Rights

Service and other sources of assistance, and referral to appropriate services with the tenant's agreement. Staff will also make a note of all "qualifying occupiers" residing in the house, should the arrears problem continue and the case proceeds to legal action.

When dealing with vulnerable tenants (for example where the tenant is elderly, has mental health problems, has young children or learning or language difficulties), staff will consider whether it would be appropriate to make a referral to social work or any other relevant agencies, with the agreement of the tenant.

Payment arrangements will be recorded in writing to the tenant and on the Association's computer system within 5 working days of the arrears interview. The tenant's adherence to the payment arrangement will be closely monitored in accordance with the amounts and payment frequency set out in the arrangement.

Personal contact will be maintained with the tenant throughout the arrears process to encourage payment of the debt and to try to prevent eviction or abandonment of the property taking place.

Where rent arrears exceed 8 weeks and the tenant receives a qualifying benefit including Employment and Support Allowance, Job Seekers Allowance or Universal Credit, the Association will apply to the DWP for Arrears Direct Payments to be made on the tenant's behalf, and for Housing Benefit or UC Direct Payments (if not already in place).

5. LEGAL ACTION

5.1 Policy Statement

We aim wherever possible to secure repayment of rent arrears without taking legal action to recover possession of the house. This principle underpins the processes already described for preventing and recovering rent arrears. While legal action is not the Association's preferred way of dealing with rent arrears, we will make use of legal action where this proves to be necessary. Eviction is a last resort for the Association, but we also wish tenants to be aware that arrears could ultimately lead to the loss of their tenancy if they do not demonstrate a satisfactory commitment to reducing arrears.

5.2 Initiating Legal Action

If a tenant with rent arrears fails to respond to contact by the Association, or does not enter into and adhere to a repayment arrangement, the Association will consider issuing a Notice of Proceedings to recover the property.

Prior to the issuing of a notice, the Association will check the arrears problem is not due to a Housing Benefit delay, to ensure tenants do not face potential eviction

due to Housing Benefit processing problems. Should the arrears problem be the result of a Housing Benefit delay, support will be offered to the tenant to assist them in resolving this before any further legal action is taken in relation to the debt.

The issuing of a Notice of Proceedings may also be delayed if the Association are aware of any special circumstances, such as serious illness or support requirements, which may have affected the tenant's ability to respond to the problem.

If the arrears problem is not related to a Housing Benefit delay and the Association is not aware of any special circumstances we will issue a Notice of Proceedings in the prescribed form. We will ensure that we have complied fully with the Pre-action requirements as defined in the Housing (Scotland) Act 2010.

In accordance with the Housing (Scotland) Act 2001, we will also serve a Notice on any "qualifying occupiers" who live in the property, to advise them of their right to be heard in court at a recovery action. Tenants have a contractual obligation to advise the Association of who lives in their house. The Association will also take steps to confirm who lives in the house prior to initiating legal action, through letters and/or home visits.

Service of all relevant Notices will be witnessed, and proof of service maintained by the Association.

In accordance with the Homelessness etc. (Scotland) Act 2003, we will notify North Lanarkshire Council where we are raising proceedings to recover a house as a result of rent arrears, or on other grounds.

Court action will be initiated if the tenant does not respond to the Notice by entering into a repayment arrangement which is acceptable to the Association, and no alternative solution is available.

5.3 Grounds for Court Action

Court action in respect of rent arrears will be taken under Ground 1, Schedule 2, Part 1, of the Housing (Scotland) Act 2001, which states that:

'Rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy has been broken.'

Where there are other breaches of tenancy in addition to arrears, these may be included in a Notice of Proceedings detailing the additional grounds.

Action for repossession may only be started when a Notice is 'live'. Staff will issue clear instructions to the Association's Solicitor detailing the action and timing required in each case.

5.4 Court Proceedings

The law requires landlords to convince the Sheriff that it is reasonable to evict. Staff will therefore keep records at all stages of arrears cases, to meet the requirements of any subsequent court action. Staff will also ensure that the person representing the Association in Court has the latest information available regarding the level of arrears and any repayment proposals made by the tenant.

In the period between the serving of a Notice for Recovery and any Court hearing, the Association will:

- Continue to make every effort to negotiate a suitable repayment arrangement with the tenant.
- Continue to offer the tenant access to our Welfare Rights service.
- Advise the tenant to seek advice and support from other agencies where appropriate.
- Check the tenant's circumstances for any specific requirements e.g. access to an interpreter.
- Check the tenant has not abandoned the tenancy.

Where staff consider that the tenant's ability to resolve the arrears problem would be improved by specialist benefits or debt counselling advice, the Association will involve our in-house Welfare Rights Service, or make a referral to a suitable organisation offering money advice or assistance with multiple debts

Decree may sometimes be awarded at the first hearing, if the tenant makes no effort to make repayments or defend the case.

Normally, there will be some effort by or on behalf of the tenant leading to an offer to reduce the debt by instalments. In these circumstances, the Association's policy will be to seek to have the case continued or "sisted".

At the next hearing, the case may be continued again or sisted, or if no progress has been made, decree may be sought. Sisting will be sought by the Association where an acceptable repayment proposal is made by the tenant. The Association will monitor repayments to ensure adherence to the arrangement. If the tenant defaults, the Association will apply to the court to have the case recalled.

5.5 Avoiding Evictions and Preventing Homelessness

The Association will not refuse any reasonable offer of repayment at the first calling of a repossession action, and continuations or sists will be acceptable where a reasonable offer is made in court.

Consistent with its aim of minimising evictions, the Association will continue to offer tenants the opportunity to make an arrangement and to provide support in adhering to the arrangement, throughout the course of any court action. In doing so, we will ensure that tenants are made fully aware of the possible consequences of failure to pay.

Whichever type of action is raised initially, the tenant may pay the debt in full prior to the first hearing.

5.6 Enforcement of Decrees

Decisions to enforce a possession decree will rest with the Association's Management Committee. In being asked to make decisions, Committee will be made aware of any factors which are relevant to the individual's circumstances (for example, where the household contains children or vulnerable adults). An anonymised supporting summary report will be presented to the Committee.

A decree for repossession enables the Association to end the current tenancy on or after the date set by the Court, and usually within 6 months. On occasion, the granting of the decree may prompt the tenant to repay sufficient arrears to persuade the Association not to complete the eviction.

5.7 Eviction

If the Management Committee approves the enforcement of a decree for repossession, the Association will instruct Sheriff's Officers to issue a final notice to the tenant advising of the date of the eviction. Arrangements will be made for a joiner to attend at the time set by the Sheriff's Officer, to allow entry to be taken and the property to be secured. Housing Management staff will also attend the eviction.

The Association will notify North Lanarkshire Council's homelessness and social work sections of any decisions taken to enforce decree for repossession.

6. RESPONSIBILITY FOR IMPLEMENTING THE ARREARS POLICY

Implementation of the arrears policy will be conducted by the Housing Management Team under the direction of the Director. Staff will present quarterly reports about rent arrears to the Association's Management Committee.

Housing Officers have delegated authority to instruct the issue of a Notice of Proceedings and to instruct the commencement of Court action.

The Arrears Policy is supported by detailed arrears procedures.

7. FORMER TENANT ARREARS

The Association will pursue former tenant arrears, subject to the need to give priority to current tenant arrears and the need to make the best use of available staff time and resources.

This means that priority will be given to former tenant arrears cases where the current whereabouts of the debtor are known, and where there are realistic prospects of recovering the debt, (i.e. the use of staff time and legal assistance will be targeted carefully, to ensure that the Association's approach is cost-effective).

Where a debt is uneconomic to pursue, or recovery attempts have failed, or the former tenant's whereabouts are unknown, or there is no prospective of recovery, approval to write off the debt will be sought. Authority to write-off former tenant arrears rests with the Management Committee. Recommendations to the Committee will reflect the age, the level of, and recovery prospects of any debts recommended for write-off.

Any written off debt may be reactivated and recovery action recommenced if the former tenant's whereabouts become known or information is provided which indicates a significant change in their circumstances.

For new tenants of the Association, where a previous tenancy debt exists, it is illegal, in terms of the Housing (Scotland) Act 2001 to suspend an applicant from the housing list for housing solely due to Former Tenants' arrears being in existence. The Association will admit an applicant to the list but operate a twelve weeks repayment schedule before an offer of housing is made.

8. PRIORITISATION OF DEBTS

We will always seek to recover debts in the following order, and will not move onto the next category until any preceding categories have been fully recovered;

- Current tenancy rent arrears.
- Former tenancy rent arrears.
- Current tenancy court expenses.
- Former tenancy court expenses.
- Current tenancy rechargeable repairs.
- Former tenancy rechargeable repairs.
- Any other debts.

9. MEASURING AND IMPROVING ARREARS PERFORMANCE

Performance will be monitored routinely and continuously by the Housing Management Team and the Director, to ensure that the Association's performance standards and targets are adhered to.

Specifically, the Association will monitor and analyse its performance on arrears using both regulatory and in-house performance indicators as follows;

Scottish Social Housing Charter Indicators

- Rent collected as a percentage of the rent due
- Gross rent arrears as a percentage of the rent due (*)
- Percentage of initiated court actions resulting in eviction

In-House Indicators

- The total amount of current tenant arrears and as a percentage of rent due. (*)
- The total amount of former tenant arrears and as a percentage of rent due. (*)
- Number of notices for arrears served.
- Number of court actions for arrears initiated.

Performance against both the Charter and In-House indicators will be reported to the Management Committee. Indicators marked (*) will be reported quarterly, the remaining indicators will be reported at least annually, and more frequently if required.

10. POLICY REVIEWS/CONSULTATION

The rent arrears policy will be reviewed every 3 years or more frequently if required. Targets, procedures and working methods may be altered more frequently, where the Association's monitoring of policy outcomes indicates this is needed.

The Association will regularly publish information about its performance in managing rent arrears, through annual reports and any other appropriate methods. We will also seek feedback from tenants about the operation of the policy through regular satisfaction surveys and any other appropriate methods.

11. DATA PROTECTION

Abronhill Housing Association will treat tenants' personal data in line with its obligations under the current General Data Protection Regulation and its own Privacy Statement. Information regarding how tenants' data will be used and the basis for processing data is provided in the Association's Privacy Notice.

12. EQUAL OPPORTUNITIES

The Association will seek to ensure that in implementing this policy that no group, organisation or individual will receive less favourable treatment or be discriminated against regardless of their race, colour, ethnic or national origin, language, belief, age, sex, sexual orientation, gender realignment, disability, marital status, pregnancy or maternity. We will positively endeavour to achieve fair outcomes for all.

13. COMPLAINTS

Any tenant who feels aggrieved by their treatment under this policy can ask for a copy of the Association's Complaints Handling Procedure which is available on the Association's website or from our office. Any tenant making a complaint will be advised of their right to complain to the Scottish Public Services Ombudsman.