



## DEBT RECOVERY POLICY

<b>Reference</b>	HPS-H-06
<b>Information Classification</b>	Public
<b>Review Frequency</b>	3 years
<b>Date Reviewed/Approved</b>	28 October 2019
<b>Next Review Due Date</b>	October 2022
<b>Applicable Committee(s)</b>	Housing & Property Services
<b>Owner - role</b>	Director of Housing & Property Services

<b>Record of Updates/Changes</b>			
<b>Current Version</b>	<b>Date Approved</b>	<b>Approved By</b>	<b>Changes</b>

## 1. POLICY AIM

This policy aims to set out how Castlehill Housing Association (CHA) will maximise rental income and recover outstanding debt due by tenants, in a consistent and reasonable way. Internally it is recognised that non-payment of rent directly impacts upon other financial functions of CHA and this policy sets out how best to prevent, manage and recover arrears. The policy aims to reflect good practice and to deal with arrears and other debts in a constant and equitable way.

The relevant Outcome within the Scottish Social Housing Charter (2017) is 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 by the landlord and by other organisations*

This outcome covers how landlords 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.

## 2. RELATED POLICIES

- Former Debt Policy
- Equalities & Diversity Policy
- Data Protection Policy
- Rent Setting Policy
- Allocation Policy

## 3. LEGAL CONTEXT/Framework

The main consideration in arrears recovery relates to the legal provisions contained in the Housing (Scotland) Act 2001 and 2010 and the statutory and contractual rights and obligations on the Scottish Secure Tenancy Agreement. However other legislation referred to includes:

- Housing (Scotland) Act 2006;
- Equality Act 2010;
- Data Protection Act 2018;
- Human Rights Act 1998;
- Children's Scotland Act 1995;
- Debtors Scotland Act 1987;
- Bankruptcy (Scotland) Act 2016

## 4. PRE-ACTION REQUIREMENTS FOR RENT ARREARS

The Housing (Scotland) Act 2010 introduced pre-action requirements that landlords must satisfy in all rent arrears cases before serving a Notice of Proceedings on a tenant. This notice advises the tenant that the landlord is considering court action to recover possession of the property because of the tenants rent arrears. CHA will ensure that the pre-action requirements are met by complying with the following as stated in the statutory guidance.

- Give clear information about the tenancy agreement and the unpaid rent or other financial obligations;
- Make every effort to give help and advice on eligibility for Housing Benefit or Universal Credit and other types of financial assistance;
- Give information about sources of help and advice with the management of debt;
- Make every effort to agree with the tenant a reasonable plan for future payments;
- Consider the likely result of any application for Housing Benefit or Universal Credit that has not yet been decided;
- Consider other steps that tenant is taking which are likely to result in payment within a reasonable time;
- Consider whether the tenant is complying with the terms of an agreed plan for future payments; and
- Encourage the tenant to contact their local authority

If there are multiple grounds for seeking repossession, and those grounds include rent arrears, then CHA will ensure that the pre-action requirements are met before serving a notice on the tenant.

## 5. ROLES AND RESPONSIBILITIES

### 5.1 Role of the Housing and Property Services Sub Committee

The Housing and Property Services Sub Committee has responsibility for monitoring the performance of debt recovery by the Housing and Property Services Team against the targets published in the internal management plan.

The Committee is also responsible for reviewing the policy.

The Committee meets quarterly to review the arrears reports. They will consider all cases above a set level and all cases pending legal action. Where legal action is recommended by the Housing Services Manager, committee approval must be granted before eviction action for recovery of possession and repayment are taken. A full description of the arrears reporting is contained within [section 10](#) of this policy.

### 5.2 Role of the Senior Housing Services Officer

The Senior Housing Services Officer, under the supervision of the Housing Services Manager is responsible for ensuring that cases are dealt with appropriately and promptly and that action has been undertaken in line with the published policy and procedures. The Housing Services Manager will bring cases which warrant legal action to the attention of the Housing & Property Services Sub-Committee.

Where required the Senior Housing Services Officer will along with the Housing Officer visit and correspond with tenants where the level of their arrears, are of concern and where there has been a breakdown in an arrangement or communication.

The Senior Housing Services Officer will review all arrears cases with the Housing Officers as part of an arrears review each month.

### 5.3 Role of the Housing Officer

The Housing Officer will be responsible for the management of all the cases within their area and ensuring that new arrears cases are identified and contacted promptly. Any action taken and/or contact with the tenant regarding the case must be recorded in the arrears monitoring section within customer relation management module in QL

Housing Officers are responsible for contacting the tenant to discuss the reason for the arrear and to set up arrangements to reduce the balance. Once in place, the Housing Officer is responsible for ensuring that the arrangement is adhered to and taking appropriate action if the arrangement defaults. The Housing Officer may liaise with Housing Benefit or Universal Credit to confirm applications have been made or are in progress.

### 5.4 Role of the Administration

Customer Service Assistants are responsible for processing all rent payments to the tenants rent accounts that are received through reception. The Admin Officer is responsible for posting the direct debits and the Admin Assistant is responsible for posting the Housing Benefit schedules. The Finance Officer is responsible for processing bank standing orders to tenants rent accounts which includes the housing costs from the Department of Work and Pensions and for raising the monthly rent debit. Efforts are made to ensure that all payments relevant to that month are posted to the accounts before the debit is raised. The debit should be raised on the 1<sup>st</sup> working day of the new month for the Housing Officers to receive the arrears report.

## 6. PREVENTION OF ARREARS

CHA recognises the importance of early identification and intervention to stop a case progressing to the stage where legal action is necessary. Arrears can arise, in a number of ways. The approach that CHA will take will be flexible but will also aim to be consistent and fair.

The following principles are recognised as being fundamental to the policies and procedures of CHA:

- Early identification of potential arrears problems through knowledge of tenant's circumstances and regular detailed monitoring of accounts.
- Sensitive, immediate and individual action by staff which seeks to address the cause of the arrear not only of the failure to pay.
- Acknowledgement of the need to address the wider issues of low income, pension and benefit levels which cause poverty within the special needs groups served by CHA.

CHA does not have a specific Homelessness prevention strategy however the policy considers good practice in homelessness prevention strategies which link in with the 3 Local Authority Strategies.

## 6.1 Tenancy Allocation

Having generic Housing Officers, most tenants will be signed up by the Housing Officer who interviewed them for the vacancy. At offer and viewing stage the Housing Officer will have the opportunity to discuss the rent and how the rent would be paid.

The offer letter for a tenancy will also state the total monthly rent due and any services which are included within the monthly rent and if any of the services are not eligible for Housing Benefit or Universal Credit. The offer letter also states that the total rent is due in advance, on or before the first of each month in accordance with the Tenancy Agreement.

Should the prospective tenant be applying for Housing Benefit or Housing Costs via Universal Credit the Housing Officer would advise them how to go about applying for Housing Benefit or Universal Credit depending on the local authority area. This is an important stage in arrears prevention as it allows the Housing Officer to let the tenant know that should they be experiencing problems paying their rent, that the Housing Officer will be able to offer assistance.

## 6.2 Post Allocation Visit

Housing Officers will complete a Post Allocation Visit within 6-8 weeks of the commencement of the tenancy. This gives a further opportunity to check the status of the rent account and have direct face to face contact with the tenant. Where the tenant is claiming Housing Benefit or Universal Credit the Housing Officer should check the status of the claim to ensure that they can deal with any outstanding items of information to support the claim when seeing the tenant.

# 7. INCOME MAXIMISATION

CHA aims to ensure that tenants are receiving the correct benefits to maximise their income. All Housing Officers can when required refer tenants to the Benefits Advice Section (also known as the Financial Inclusion Team) of the Local Authority. Where there is a concern about debt which includes rent arrears, tenants would be referred to a money advice service, for example Gordon Rural Action, Citizens Advice or Financial Inclusion Team.

## 7.1 Use of IT

CHA uses a computerised rent accounting system within its Housing Management System which records debits, credits and the way in which payments to accounts have been made. The Housing Management System should be used to its maximum capacity with the diary entries are particularly important to record arrangements and contact with tenants. Using the Housing Management System properly allows good customer service through continuity of information.

## 7.2 Key Project

Where a tenant is having difficulty managing their rent and there is a concern that this may be due to non-housing factors, the Housing Officers should offer the support of the Key Project and pass on the Key Project leaflet to the tenant and make a referral to the project. Should the support be accepted,

the tenant can request that the Key Project liaise with the Housing Officer in all matters relating to the tenancy.

### 7.3 Referrals To Advice Agencies

Tenants should be advised to contact agencies which can assist with debt advice, especially where the rent arrear is not the only debt where relevant information can be given about National Debt Line and fact sheets/info can be printed from their website.

### 7.4 Housing Benefit

Ensuring prompt processing of new Housing Benefit claims plays a key role in ensuring that arrears are dealt with effectively. Where Service Level Agreements are in place, CHA ensure compliance.

To ensure direct payments of Housing Benefit from the Local Authority, CHA agrees to comply with request for overpayments. CHA aims to ensure direct payments in all possible cases and assist tenants in requesting for the reduced rate in benefit overpayment deductions where this is possible.

CHA must consider any application for Housing Benefit or Universal Credit and whether the likely amount to be paid would reduce the arrears to an acceptable amount.

### 7.5 Payment Methods

It is CHA's aim to offer multiple ways for tenants to pay their rent/arrears.

- Housing Benefit: CHA prefers to receive housing benefit direct when the tenant is in receipt of full housing benefit.
- Housing Costs via Universal Credit: CHA can request direct payment from the Department of Work and Pensions (DWP) if the circumstances meet the DWPs criteria. CHA prefer the tenant to receive the housing costs and pay CHA. Direct payment from the DWP means the tenants rent account is at least 6 weeks in arrears due to their payment schedule.
- Third Party Deduction: where a tenant is in arrears and meets the benefit criteria CHA will liaise with the tenants regarding taking arrear payments at source. As above, these are in arrears.
- Payment to Office: cash and cheque payments can be taken in at the reception area during normal working hours.
- Payment by Post: cheques can be sent in by post however sending cash by post is discouraged.
- Direct Debits: can be set up for tenants paying full rent.
- All-Pay: a card can be provided to tenants to allow them to pay cash, cheque or using a debit card through the all pay network. This allows payments to be made weekly or monthly.
- Bank/Building Society Standing Order: can be set up for any amount on weekly or monthly arrangement.

- Debit Card payment: can be made over the phone or at reception

Tenants are advised at the viewing stage of the possible payment methods and are asked to advise of their preferred option so that the necessary paperwork can be completed before the tenancy agreement is signed.

## 7.6 Moving Home

It is important where tenants are transferring either internally or to another RSL that they are given the right advice regarding claiming for Housing Benefit or Universal Credit. This can stop a former tenant arrears being left on the account and can also prevent a new arrears balance being created at the start of the tenancy. Where the tenant is not entitled to Housing Benefit or Universal Credit the Housing Officers should advise the tenant of the balance on any account and make an arrangement if the balance cannot be paid in full.

# 8. MANAGEMENT/RECOVERY OF ARREARS

## 8.1 New Balance Cases

Due to the rent being charged monthly, one missed payment can be substantial therefore it is important for contact to be made at this point. Rent debits are added to tenant rent accounts at the beginning of each calendar month. Housing Officers receive the rent arrears prints shortly after this. Housing Officers should write to the tenant using the ARR1 letter to advise them of the balance giving them 7 days to clear the account or contact to discuss any difficulties they may be having in paying their rent.

Housing Officers should diarise the end of this timescale and check that payment has been received.

Should the tenant contact to advise that they are having difficulty paying the rent then the Housing Officers will discuss the difficulty and an arrangement should be made which both parties feel is achievable and appropriate.

The Housing Officers should then send the ARR3 letter confirming the arrangement giving amounts and frequency of payments. The date of the proposed payments should be diarised and checked.

## 8.2 No Payment/Contact Following 1st Letter

Where no payment/contact is made within 7 days following the initial letter, the next letter should be sent, which is the ARR2. This letter also advises of a time and date when the Housing Officer will visit to discuss the arrears and make a suitable repayment agreement. The Budget/Repayment Agreement Form is also enclosed with this letter

## 8.3 Payment on Arrangement

When an arrangement is first agreed, the ARR3 letter should be sent confirming the arrangement and detailing the amount due; frequency of payments; and the projected end date of the repayment

agreement. Where tenants are keeping to an arrangement, periodically a statement should be sent to advise them of their balance and to encourage them to keep the arrangement going.

Where the outstanding balance has been cleared, the tenant should be advised in writing that the balance is clear and they should be advised of the correct amount of their rent payments from then on.

#### 8.4 Default On Arrangement

Where an arrangement has defaulted the tenant should be contacted by sending the ARR4 letter to advise of the balance outstanding and asked to pay the arrangement amount within 7 days or should contact their Housing Officer to discuss the missed payment and if their financial circumstances have changed and the repayment plan needs to be reviewed, for example, an application for Housing Benefit or Universal Credit has since been made.

#### 8.5 No Contact After 2nd Attempt

The Housing Officer should try to make further face to face contact with the tenant by visiting them at home. If the Housing Officer manages to speak to the tenant, the Housing Officer should stress the importance of not letting the arrears accrue further and making an arrangement.

Should the tenant be unavailable, a card should be left with a rent statement in a sealed envelope asking for urgent contact. If no contact is made the ARR5 letter should be sent advising that there has been no contact regarding the arrear and advising that legal action will be taken should the situation not be resolved. This letter must also include the projected Court costs which the tenant will be liable for if the Case is referred for Court action; and tenants must also be advised to contact their local authority, with contact details provided, should they become homeless following court action. Importance should be put on our wish to work with the tenant to avoid legal action but that failure to do this puts their tenancy at risk following the serving of the Notice of Proceedings.

#### 8.6 Sequestrations/Informal Bankruptcy

Where a tenant provides documentation relating to their sequestration the amount which is not pursuable will be calculated and the balance adjusted accordingly. All correspondence will detail the total arrear and the non-recoverable amount.

Housing Officers should also search the Accountant in Bankruptcy website, which is an agent of the Scottish Government. This website holds the statutory register about the insolvency of individuals and businesses in Scotland and is useful when tenants do not provide the necessary written paperwork.

Once notified of a sequestration/informal bankruptcy, The Admin Officer should ensure that they have the relevant dates to calculate the level of pursuable rent arrears and the Housing Officer informs the tenant of this in writing.

Under the Bankruptcy (Scotland) Act 1985 (as amended), a landlord cannot generally recover rent arrears through court action once a tenant has been sequestered.

In cases where a tenant is sequestered **before** the landlord starts eviction proceedings, CHA should not take any further legal action in this matter.

In cases where the tenant is sequestered **after** court proceedings to repossess a property have begun, the Committee should be informed and advised whether they still wish to pursue eviction action.



## 8.7 Notice of Proceedings (Nop)

If the arrears balance does not reduce then the Housing Officer should serve an NOP once all the pre-action requirements are met. This should be done in agreement with the Senior Housing Services Officer. An NOP should only be served where the tenant has been advised that this is the next stage (ARR5 letter) should they fail to pay their rent or when an arrangement is broken.

An NOP should be served separately for each tenant in the tenancy and the NOP should be addressed to them solely. The NOP should use Schedule 2, Part 1, Ground 1 of the Housing (Scotland) Act 2010 which states “rent lawfully due from the tenant, has not been paid or any other obligation of the tenant has been broken or not performed.”

The form of the Notice in cases where the grounds include rent arrears now contains a section which lists each of the pre-action requirements. CHA is required to mark each one as complete and set out brief details of the steps they have taken which is considered as complying with the legal action requirements.

It may be that service of the NOP initiates contact with a tenant who has been unwilling to discuss the arrears previously. At this point it should be made clear to the tenant that ongoing contact is necessary to resolve the situation satisfactorily.

### 8.7.1 Service of NOP

NOP's should be hand delivered by the Housing Officer and a witness and/or sent recorded delivery. The Housing Officer should always aim to speak to the tenant when the notice(s) are delivered. This gives an opportunity to explain about the NOP and to make an arrangement. The NOP should also include the accompanying ARR6 letter which advises the tenant that they are required to attend an office interview with the Senior Housing Services Officer to make a suitable repayment agreement so that further legal action by CHA is prevented.

### 8.7.2 Qualifying Occupiers (QO's)

Housing Officers must make reasonable enquiries to ascertain who are the QO's within the household. In cases of concern which may result in legal action, Housing Officers should ensure this information is collected during an arrears interview.

Reminders are regularly given to tenants via the newsletters of their obligation to advise of changes to the household.

Service of the copy of the NOP for the Qualifying Occupiers should be served at the same time as the tenants and the QO's should receive a separate copy of the notice for each QO in a separately addressed sealed envelope.

### 8.7.3 Arrangement After Serving NOP

If the tenant contacts after the NOP has been served and an arrangement is made then the arrangement should be confirmed using the ARR7 letter. This letter reminds the tenant that the NOP

is in place and failure to keep to the arrangement may result in CHA asking for a court hearing. If the arrangement is then broken the standard ARR8 letter should be sent.

#### 8.7.4 Final Attempt Prior To Active NOP

If no payments or contact have been received two weeks before the live date of the NOP the Senior Housing Services Officer should write to the tenant using the ARR9 letter encouraging contact with the tenant to avert the case calling in court.

#### 8.7.5 Removal Of NOP

Where a tenant has reduced their arrear to a satisfactory level or the balance has been cleared, the tenant should be contacted by letter to advise them that the NOP has been withdrawn and that should the arrears accrue again we would be required to serve a fresh NOP.

## 9. COMMUNICATION

### 9.1 Letters

All letters regarding rent arrears will be written in a clear and understandable way. Where the issue concerns a complex description of the rent account or Housing Benefit or Universal Credit issue the Housing Officer will ensure that the tenant is also invited to attend an interview to explain the account.

All letters will give the outstanding balance of the account as the heading to the letter and will detail the name and designation of the officer that the tenant should speak to if they have any queries regarding the arrears. Statements of the account should be sent out where applicable.

### 9.2 Telephone Calls

Much of the arrears work undertaken by the Housing Officers and Senior Housing Services Officer will be conducted over the phone. Notes should be taken of the discussions with the tenant (using diary entries on the Housing Management System where possible) and any arrangements made should be confirmed in writing using the ARR3 letter or the ARR7 letter.

All communication with the tenant in relation to their rent account should be noted on the housing management system It is crucial that this information is recorded for CHA to demonstrate that the pre-action requirements have been met.

### 9.3 Housing Officer Visit/Interview

Where possible Housing Officers should discuss the arrear with the tenant face to face. This gives the officer a chance to verify details regarding income/benefits and to gauge any situations within the household which may be impacting on the tenants' ability to pay rent. Housing Officers should (where circumstances allow) visit the tenant without prior arrangement with the aim of discussing the arrears. If the tenant is not available, a card should be left asking for contact along with a statement of account should be left in a sealed envelope. Housing Officers need to find a balance between remaining approachable and encouraging the tenant to discuss any difficulties while trying to ensure payment is received and to explain the procedure which is put in place if the arrears continue to accrue. Housing Officers should use this opportunity to check household details, in the event that further action is

required. It should be made clear that rent is a priority debt and needs to be dealt with urgently. The visit/interview should be used for:

- (1) establishing the reason for the arrear
- (2) to confirm any involvement from other agencies which may assist with situation
- (3) to advise the tenant of the importance and achievability of clearing the arrear
- (4) to agree a repayment schedule that is achievable
- (5) to build a relationship with the tenant so that this and future problems can be dealt with more easily
- (6) to give information about debt advice agencies which can assist
- (7) checking QO's
- (8) conducting an income and expenditure analysis (if appropriate)
- (9) explaining the course of any further action should the arrear continue to accrue

Staff should consider issues of personal safety with all home visits and any concern about the safety of the tenant where issues of domestic violence in the home are suspected or know should be dealt with sensitively.

## 9.4 Tenants Who Receive Support

Where a tenant receives support and there is a protocol in place with the support provider, copies of correspondence relating to the arrear will be copied to the support provider as it is acknowledged that although the rent is the responsibility of the tenant, they may require some assistance in sorting out rent and Housing Benefit or Universal Credit issues. CHA should aim to ensure that where the tenant may have difficulty in communicating with the Housing Officer (for example where an interpreter is needed) that this is dealt with prior to the visit for the interview to be effective.

# 10. LEGAL REMEDIES

## 10.1 Court Action

Taking court action is a last resort and will only be used when CHA has exhausted all other options available. Before the NOP is served, the Housing Officer should discuss the case with the Senior Housing Services Officer or Housing Services Manager. If it is appropriate, the paperwork relating to the case should be copied and sent along with the solicitors' pro-forma once the NOP has been served. The pro-forma will instruct what action should be taken and detail a brief history of the case. This information should be emailed to the solicitors.

When the solicitor contacts to advise of the return and calling dates the Senior Housing Services Officer or Housing Services Manager should write using the ARR11 to advise of the dates and detail the circumstances in which the case could be sisted and requesting contact.

Normally CHA will seek a conjoined action for recovery of debt and possession however in some cases separate actions will be sought. The Senior Housing Services Officer or Housing Services Manager and Housing Officer will discuss the appropriate action in each case.

## 10.2 Ordinary Cause/Summary Cause Action

Where the outstanding balance at the time of going to court is less than £1,500 the case will be a summary cause action. Over £1,500 any case is an ordinary cause action which incurs larger legal costs. CHA aims to take all actions on summary cause as an ordinary cause action indicates a failure to implement and follow the arrears policy and procedure correctly. Where the action is successful and expenses are awarded, these will be recharged to the tenant.

## 10.3 Pre-Court Visit

When CHA receive information from CHA's solicitors regarding the return and calling dates for the court hearing, the Housing Officer and or the Housing Services Manager should try to visit the tenant to discuss the pending court action. Any discussion at this point is useful as it may provide information which has not previously been disclosed as to why the rent has not been paid. The discussion may inform the progress of the court action, e.g. to assist the case or instruct the solicitor to continue the case to allow for benefits to be sorted out or for time to pay order to be put in place. This visit also allows the officers to give the tenant information regarding rehousing should decree be granted.

## 10.4 Section 11

The Housing (Scotland) Act 2006 requires RSL's to inform the relevant Local Authority where legal action is being taken for recovery of possession. There is a standard format for this information and when our Solicitors send the papers to court, they will send the section 11 notification in the prescribed format to the Local Authority.

## 10.5 OUTCOMES OF COURT PROCEEDING

### 10.5.1 Decree for Recovery of Possession/Recovery of Debt.

In proceedings where the ground used is that tenants have not paid rent lawfully due, the tenancy is not ended on a date appointed when the court grants an order. In such cases, the tenancy only ends when the landlord recovers possession of the property.

This means that there is a final opportunity, even after a court has granted an order for possession, for CHA and the tenant to agree a way to resolve the arrears and avoid eviction. During this period, the tenancy continues to be in place.

The order granted by the court must specify a period for which the landlords have a right to recover possession of the house. The Period Order prescribes a maximum period for the court order of 6 months from the date when the Decree is extracted.

Where tenants or their representatives lodge an appeal after the court extracts the order for recovery of possession, the maximum period of 6 months will begin from the date of the interlocutor of the court dispensing the appeal.

If CHA evicts the tenant within the period the court specifies, then the tenancy ends, only on the ejection date. If CHA does not evict the tenant the order ceases to have effect after the specified period. If rent arrears reoccur CHA will have to meet the pre-action requirements before raising any future proceedings to repossess the property.

## 10.6 Decree for Recovery of Debt.

Allows the pursuit of debt through legal means either while tenant is a current or former tenant.

## 10.7 Time to Pay Order.

Where Decree is granted, this allows the debt to be cleared gradually by agreement either by Sisting or continuing the case to allow the tenant to start and maintain payments. The payments should be closely monitored by the Housing Officer and a missed payment will result in the case being brought back to the court to enforce the decree.

## 10.8 Case Sisted.

This delays the court proceedings and can be sisted by the solicitor at any time including the day of the hearing. Sisting the case may be done where the tenant has started to pay an arrangement and CHA wants to allow the payments to be monitored. Should payments be missed, the case can be recalled at any point within the dates that the NOP is valid.

## 10.9 Case Continued.

This is a similar mechanism to sisting a case however the date for the continuation hearing is set at the initial hearing.

## 10.10 Decree for Expenses.

Where the tenant has cleared the arrears before the hearing CHA may choose to apply for decree to recover the expenses accrued in taking the case to court.

## 10.11 Case Dismissed.

When the tenant clears the arrears and any expenses before the date of the hearing the case will be dismissed.

## 10.12 Recall of Decree

Where decree has been granted, the tenant can recall the decree at any time before the eviction date. The recall must state a defence and a date will be set for the hearing. This essentially cancels the decree and the recall hearing is treated as the first time the case has been heard in court. If the tenant defended the action at the hearing in which the decree was initially granted, they cannot defend the recall however a qualifying occupier would have the right to do this.

## 10.13 Committee Approvals For Eviction

Where the court awards decree for repossession, a short report should be prepared for the committee indicating the reasons for the court action and the progress of the case. It should be indicated in the report the efforts made to resolve the situation. Family composition and economic status should also be detailed. By giving approval, the committee are agreeing that decree should be enforce. If permission is required out-with the committee cycle, the convenor of the Housing & Property Services

Sub Committee should be contacted. If they are not available the Chair of the Committee should be contacted. Committee will be updated on the outcome of any court cases at the next meeting.

#### 10.14 Wages Arrestment/Bank Account Arrestment

An action to arrest wages can be lodged in court under the Debtor's Scotland Act 1987. Housing Officers should contact CHA's Solicitor to instruct them to arrest the tenant's wages, giving as much detail as possible. This action should not be taken unless the tenant has been informed in writing that CHA intend to pursue the debt in this way. Again, notification of this possible course of action may encourage the tenant to make an arrangement to clear the debt.

#### 10.15 Decree For Recovery Of Possession

The solicitor will advise the Senior Housing Services Officer or Housing Services Manager of the outcome of the court hearing. If recovery of possession has been sought and granted the tenancy can only be ended on the date of the eviction.

The Senior Housing Services Officer should contact the Local Authority Homeless Persons Section to advise them that decree has been granted. If the Homeless Section are concerned about the household they would be able to involve the Social Work Services.

The solicitor will receive a copy of the extract decree not before 14 days of the court hearing. When received, providing that Committee have given approval, the solicitor will advise the Senior Housing Services Officer or Housing Services Manager of the date agreed with the Sherriff Officers to carry out the eviction which will be arranged as soon as practically possible.

At the agreed date, the eviction should be attended by the Housing Officer and Housing Services Manager. An inventory should be made of items left in the property. Staff should take photos to record the items left and the condition of the property.

The Housing Officer should inform the Property Services Officer of the date of the eviction when advised by the solicitor and should request that the Property Services Officer arrange for a joiner to be present to change the locks.

#### 10.16 Decree For Recovery Of Debt

Where this is granted as part of a conjoined action, attempts must be made to set up an arrangement prior to the eviction and a contact/forwarding address should be sought. The debt will then be pursued as a former tenant arrear (See Former Tenant Arrears Policy).

#### 10.17 Suspension Of Legal Action

Legal action should be suspended when:

- The arrears balance is paid in full
- The case is sisted to allow for benefits to be processed or for an arrangement to be maintained.
- Tenant deceased.
- The balance is reduced to a reasonable level to warrant removal of the threat of legal action.

## 10.18 Former Tenant Arrears And Other Debts

Debts due to CHA such as rechargeable repairs and unpaid legal expenses as a result of court action will be pursued by following the Recovery of Recharges and Former Tenant Arrears Policy.

### 11. REPORTING

To assess the performance of both the policy and the officers implementing the policy it is essential that suitable data is available from the Housing Management System. This enables targeting of resources and workload to be monitored and to encourage a performance culture of arrears recovery. Information such as this allows performance targets to be set by the organisation at a strategic level and by the managers within the department at a personal level.

The committee receive statistics at the quarterly Housing & Property Services Sub Committee meeting. The reports aim to give information on:

- Quarterly arrears totals
- Quarterly arrears totals as a percentage of rent receivable/annual rent receivable
- Level on quarterly technical arrears
- Update on all cases at legal action
- Level of former tenant arrears
- Write offs

### 12. TRAINING

CHA recognise the importance of regular and systematic training for housing staff on the effective and sensitive collection of arrears. Housing Officers should be trained on the arrears policy and be aware of the legal issues surrounding the SST and short SST. Both in-house and external trainers should be used as appropriate.

Training on Housing Benefit or Universal Credits and Welfare Benefits changes will also be carried out to ensure efficiency of the income maximisation policy.

Targets for arrears recovery are held within the Departmental Work Plan and staff will be advised of these figures given and updated targets when the Departmental Work Plan is revised.

### 13. REVIEW/EVALUATION OF POLICY

The Housing Officers and the Senior Housing Services Officer should review the effectiveness of the policy during the supervision sessions. Any areas where the policy could be improved should be brought to the attention of the Housing Services Manager. Any issues of good practice or clarification of legal issues should also be brought for discussion.