

**Current and Former Tenants Arrears Policy**

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# Summary

This policy sets out the approach to be adopted by all Housing 21 employees in relation to the management of arrears of rent, service charges and court cost for all current and former rented and shared ownership properties.

We aim to minimise the amount of rent and service charge arrears through a timely and proactive process and a ‘Collect with Care’ approach. We will apply this policy consistently and fairly and will always ensure that we act in a reasonable manner, and that our actions represent a necessary and proportionate response.

We will ensure that our approach represents current good practice and meets all legal and regulatory requirements. We will monitor our performance to ensure that this continues to be the case.

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# Legislation and Regulatory Guidance

This policy is set within the context of relevant legislation and regulatory guidance which includes:

* The Social Housing (Regulations) Act 2023
* Housing and Regeneration Act 2008
* Housing Act 1985, 1988 (as amended by section 101 of the Housing Act 1996)
* Protection from Eviction Act 1977
* Equality Act 2010
* Human Rights Act 1998
* Human rights at home: Guidance for social housing providers (Equality and Human Rights Commission Guidance)
* Homelessness Reduction Act 2017
* The Data Protection Act 2018
* Pre-Action Protocol for Possession Claims by Social Landlords
* NHF – Commitment to Refer – Guidance for Housing Associations
* Regulator of Social Housing - Regulatory standards, procedures, and guidance
* Debt Respite Scheme (Breathing Space)
* The Mental Capacity Act 2005
* H21 Safeguarding Policy
* H21 Complaints and Compliments Policy

The Pre-Action Protocol for Possession Claims by Social Landlords establishes mandatory requirements and best practices that social landlords must adhere to when managing rent arrears and before commencing possession proceedings. It aims to encourage early engagement with tenants to resolve arrears and avoid court action where possible.

Whilst registered providers of social housing are not bound by the Duty to Refer under the Homelessness Reduction Act 2017, we have adopted the Commitment to Refer best practice guidance. This commitment applies to anyone we consider to be at risk of homelessness which includes residents and those residing in our homes.

This policy also reflects the expectations outlined by the Regulator of Social Housing, regulatory standards, procedures, and guidance.

# Equality, Diversity and Inclusion

Housing 21 aspires to embed diversity and inclusion within all our organisational activities to enable these principles to become part of our everyday processes. We will make reasonable adjustments to the policy to recognise, accommodate and support individual needs, where needed. We will take a proactive approach so that no individual group is discriminated against or treated differently as a direct or indirect result of this policy.

Scheme managers are responsible for managing the culture on the schemes and ensuring that diversity is respected. All managers are briefed on diversity and inclusion.

We will monitor action taken to tackle arrears to ensure that there is no adverse impact as a result of implementation of this policy.

# Key Principles

The aim of this policy is to ensure that all our employees work effectively and consistently to minimise rent and service charge arrears and that residents are treated fairly. We will:

* Promote a payment culture, adopting a ‘Collect with Care’ approach.
* Comply with all current regulatory and legal requirements when taking action and managing arrears.
* Ensure residents are fully aware of their responsibilities for paying rent and other charges at the start of their tenancy.
* Support residents to prevent arrears developing or increasing, maintaining regular contact and prioritising early intervention action.
* Support residents to maximise their income, with scheme managers working in partnership with relevant local agencies to provide benefits advice and guidance.
* Offer a number of alternative ways for residents to pay their rent and service charges, whilst promoting the use of Direct Debit as our preferred payment method.
* Support residents’ wellbeing, building an appropriate degree of flexibility into our policy for residents who are in crisis or who are vulnerable.
* Use a staged approach to arrears recovery which clearly sets out the actions for each step.
* Seek legal possession of a property only when all other methods have failed to ensure payment, and we have given residents every opportunity to engage with us.
* Ensure that rent collection and arrears performance forms part of individual and team target setting, and that progress against targets is measured, monitored and reported on regularly.
* Where residents leave owing rent or service charge arrears, Housing 21 will proactively pursue payment in compliance with relevant legislation.
* In the case of a resident leaving with a credit balance, a refund will be made as soon as is reasonably possible.
* Outsource the recovery of former tenancy arrears to an external debt collection agency where it is reasonable to do so.
* Ensure there is provision for bad debts within the statutory accounts and have a debt write-off process for former tenant arrears.
* Ensure there is a documented audit trail of all actions taken in connection with current and former arrears.

# Management Guidance

## Devolved Process – Who Does What?

Housing 21 operates a devolved housing management service with support from the Income Administration team.

The scheme managers are responsible for arrears prevention and recovery; their line managers’ authorisation is required to progress action from the issue of a Notice Seeking Possession stage onwards. This includes but is not limited to:

* Regular reviews of the rent account and updating the housing management system.
* Maintaining regular contact with residents.
* Producing and distributing rent statements.
* Responding to queries regarding rent accounts and rent statements (with support from Income Admin regarding Direct Debit and other payment queries).
* Completing income and expenditure assessments and agreeing repayment plans.
* Income maximisation through benefit checks and support with claims.
* Support with making claims to the Helping Hands Fund, charities and other benevolent organisations.

Scheme managers are also responsible for ensuring end of tenancy procedures are followed, to minimise former arrears.

Evictions must be approved by the Managing Director who will notify the relevant Board Committee Chairperson.

Regional operational managers, deputies and heads of service are responsible for performance management with key performance targets reported to the Board and Executive Team.

The Income Administration Team’s role includes:

* Setting up manual tenancies / rent accounts plus court cost accounts where applicable.
* Creating and amending Direct Debits and supporting with associated queries.
* Releasing arrears letters requested in the housing system and forwarding these to the scheme manager
* Completing the Possessions Claims Online (PCOL) process and applying for eviction warrants (the scheme manager and their line manager will attend the eviction).
* Acting as a point of contact with the Department for Work and Pensions regarding Universal Credit payments.
* Responsibility for the management, recovery and reporting of former arrears and credit balances. They are also responsible for “writing off” unrecoverable debts and referring cases to our 3rd party Debt Management partner – currently Sinclair Taylor.

Oldham PFI arrears are managed by the Customer Services Team and the neighbourhood managers, with support from Oldham Council Legal Services. Arrears performance is reported to Oldham Council.

## ‘Collect With Care’ Approach

As a supported housing provider, we aim to put people before numbers, treating our residents as individuals and tailoring our approach to ensure we ‘Collect with Care’. We recognise that residents may from time-to-time experience financial difficulties or other difficulties including mental health issues. In order to assist and take steps to prevent the build-up of arrears, we will give them a ‘helping hand’ by:

* Providing a caring and supportive environment, listening to residents and tailoring support to meet their individual needs.
* Encouraging residents to talk about money and removing the stigma sometimes associated with debts or claiming welfare benefits
* Providing money management advice, and guidance.
* Helping residents to maximise their income and providing support or sign posting with benefit claims or claims to charities and agencies providing financial assistance.
* Using mental health capacity and proportionality checklist tools to help identify vulnerabilities and making referrals to specialist support agencies. Especially recognising the barriers poor mental health can play and making reasonable adjustments to the arrears’ processes as needed.

## Arrears Prevention

We recognise that prevention is key to low arrears. This means working with residents from the offer stage onwards to ensure they can afford the property; they maximise their income and they understand their tenancy conditions and the potential consequences of not paying their rent or service charges on time.

To do this we will conduct a financial assessment / benefit entitlement check at the tenancy offer stage to enable residents to maximise their income and ensure they can afford the rent and charges. We will also discuss with new residents about whether they have any vulnerabilities that would require the need for additional support generally, including support with financial management. We will continue to offer these throughout the tenancy.

We ask new residents to pay four weeks’ rent in advance at the sign-up stage. This is not a deposit and simply means the resident is paying the rent up front for four weeks. In cases of financial hardship, a minimum of one week’s rent in advance may be accepted along with a payment plan to bring the account four weeks in advance by the end of the starter tenancy period, scheme managers should agree this with their line manager before entering into any arrangement.

Our preferred payment method is Direct Debit, as part of our commitment to tailor services to meet individual’s needs, we will offer a range of alternative payment methods where a resident is unable to pay by Direct Debit. This may include payments by standing order, telephone and online payments or payments by cheque.

We will accept direct payments for Housing Benefit and Universal Credit and will apply for Alternative Payment Arrangement where a resident is in receipt of Universal Credit and either requests it or is in arrears.

Consideration will be given to the needs of an individual when we communicate with them.

We will use a variety of contact methods including letters, emails, telephone calls and home visits where appropriate.

We will send regular rent statements (at least quarterly) and keep residents informed of any changes to their rent and charges or their payments.

## Arrears Recovery

Rent arrears recovery will be based on a preventative approach, with a staged escalation process with emphasis on timely and proportionate action. We will only seek legal possession of a property as a last resort and where other alternatives have failed or where the resident has failed to engage with us without reason.

Where legal action has been taken and the court awards Housing 21 with either a full possession or suspended possession order, we will also look to recover court costs incurred as part of the claim.

**Mental Capacity and Public Sector Equality Duty**

Housing 21 is committed to complying with the principles of the Mental Capacity Act 2005 and the Public Sector Equality Duty (PSED) in all matters relating to rent arrears. We recognise that some residents may have disabilities or other protected characteristics that impact their ability to manage their financial affairs. In such cases, we will:

* Identify Capacity Issues Early: Where there are concerns that a resident may lack the capacity to manage their financial affairs, we will act promptly to ensure these concerns are addressed, including arranging a formal capacity assessment where appropriate.
* Suspend Recovery Actions: Recovery actions will be suspended while capacity issues are assessed, ensuring residents are not disadvantaged due to disability or other protected characteristics.
* Act in the Resident’s Best Interests: Where a resident is found to lack capacity, we will act in their best interests by:
	+ Collaborating with their legal representatives, such as deputies or attorneys.
	+ Working with family members, advocates, or support networks where appropriate.
	+ Allowing sufficient time for legal representatives to be appointed if needed.
* Resume Recovery Actions Fairly: Recovery actions will only resume when appropriate support is in place, ensuring that any decisions are made fairly and without discrimination.
* Safeguarding Considerations: Any safeguarding concerns, including potential financial abuse or neglect, will be referred to the appropriate authorities or safeguarding teams in line with our safeguarding policy.
* Public Sector Equality Duty Compliance: In all actions, we will have due regard to our obligations under the PSED to:
	+ Eliminate discrimination, harassment, and victimisation.
	+ Advance equality of opportunity by removing or minimising disadvantages experienced by residents with disabilities or other protected characteristics.
	+ Foster good relations, ensuring that residents and their representatives are treated with dignity, respect, and fairness throughout the process.

## Helping Hands

The Helping Hands project enables scheme managers to support residents with access to benefit advice and literature and to the Helping Hands Fund which can provide financial support, helping residents who are struggling with their finances.

## Use of Section 21 Notices

During the first year of starter tenancies, not earlier than four months, we may choose to serve a Section 21 notice if all other attempts to recover the arrears have failed and we have followed the Collect with Care Approach. For clarity, the supporting procedures to this policy document are included in the Starter Tenancy Policy and Procedure which details when a Section 21 notice will be used.

## Use of Ground 8 Possession Proceedings

In most circumstances discretionary grounds for possession during legal proceedings will be used enabling courts to decide whether possession is reasonable and proportionate to the circumstances of each case. The mandatory rent arrears Ground 8 can only be used as a last resort and where authorisation has been granted by a managing director.

## Breathing Space and Debt Relief Orders

The Government Debt Respite Scheme (Breathing Space) requires the Rent Arrears Recovery Procedure to be suspended to give the residents temporary protection from creditors to seek advice and take action to manage their debts.

There are two types of breathing space:

* A standard breathing space which gives protection for 60 days.
* A mental health crisis breathing space lasts as long at the mental health crisis plus 30 days.

Once Housing 21 is notified a breathing space is in place all recovery action must be suspended. This includes any conversations with the resident, letters and any legal action.

During the breathing space, the resident is still legally required to pay their ongoing rent and charges until the completion of the scheme. Housing 21 will be notified by the scheme when it has ended, at which point, and if still necessary, recovery action may recommence.

Where a resident has been granted a Debt Relief Order (DRO) and rent and service charges are included as a qualifying debt, then we will suspend recovery action of these qualifying debts for the initial period of the order (usually 12 months). At the end of the initial period the qualifying debts are normally discharged (written off) and Housing 21 will no longer be able to recover the debt. We can continue to charge rent and service charges and issue rent statements throughout the initial period. We can also take recovery action for any new arrears, or any arrears not included as a qualifying debt throughout the initial period. However, the existence of a DRO does not prevent Housing 21 from pursuing a possession order or the court from making one against a resident on the ground of rent arrears (or any other ground).

The scheme manager should record details of any orders on the housing management system and ensure their line manager is aware.

## Other Debts

This policy includes the recovery of court costs.

There are separate processes for the recovery of sundry debts and rechargeable repairs however they will also adopt the principles of Collect with Care.

## Former Tenant Accounts

Prompt action will be taken to pursue former tenant arrears or to refund credits.

Housing 21 will utilise a 3rd party debt management partner to recover debts where other options have failed and it is reasonable to do so.

Repayment plans will adopt the Collect with Care approach used for current rent arrears.

Where it is deemed there is no possibility of recovery or refund of balances, these balances will be written off as below:

* Abandonment (where we have been unable to trace the resident).
* Eviction (where we have been unable to trace the resident).
* None or insufficient funds left in an estate.
* Two-year period since the tenancy ended where no payment plan is in place.
* The end of a Debt Relief Order period (usually 12 months) and where the debt has been referenced in the order Debt Relief Orders - GOV.UK (www.gov.uk).
* Balances less than £100 at the date the tenancy ends and moves to former status.
* Debt or credit balances deemed irrecoverable or refundable.

##

## Timing and Approval of Write-Off of Former Tenant Accounts

The Income Administration Team will collate a quarterly submission of cases for write-off. Each case will have undergone review to ensure that write off is the most appropriate way forward and within the agreed tolerances.

Approvals of the write-offs will be in accordance with the Financial Delegated Authority policy.

## Debts Written Off and Subsequently Paid or Reclaimed

In the event that a debt which has been written off is then paid, the debt will be written back on to the account to offset the payment made.

## Bad Debt Provision

Housing 21 makes a provision for arrears relating to former debtors, this is currently 100% of the former debtors’ balances, with any provision being charged to the relevant business division. Write-offs are made against this provision.

## Shared Ownership

This policy applies to shared owners, however there are different stages in the process according to tenure type and specific details in each lease agreement. It should be noted that any shared ownership arrears will always be recovered as part of the resales process meaning there should be no former tenant arrears.

Consideration will be given to the deferment of any charges on properties that are up for resale following the death of the resident. The outstanding monies are then collected as proceeds of the sale.

# Review of Decisions

Should a resident disagree with any decision within this policy they can appeal to the head of service who will carry out a formal review. The appeal will consider:

* If the decision is reasonable.
* If the policy has been followed.
* If the resident’s vulnerabilities or extenuating circumstances have been taken into account.

The impact of the decision on the resident/applicant balanced with the impact on the other residents at the scheme.

* Any new evidence or change in circumstances, although the response should be clear where the original decision has been upheld and where a fresh assessment has been made.

# Process

Supporting procedures will accompany this policy. We will ensure that relevant employees are provided with the necessary training to deliver these so that they are able to offer appropriate levels of support to residents.