

Rent Arrears policy

Housing Management policy 3

Keniston Housing Association

Introduction

"Ensuring that rental income is collected effectively is a key function for social landlords"
(ODPM Good Practice Guidance 'Improving the Effectiveness of Rent Arrears Management'
June 2005

Keniston's financial health depends on tenants paying their rent promptly. In this respect, it is important for a culture of payment to be developed. The Association wants to avoid debt accruing which may ultimately lead to repossession of homes, which conflicts with its prime objective to house people in housing need.

This policy has been drawn up using advice on good practice as found in the ODPM's Good Practice Guidance 'Improving the Effectiveness of Rent Arrears Management' (June 2005), DCLG 'Guide on Effective Rent Arrears Management (Aug 2006) Ministry of Justice 'Pre-action Protocol for Possession Claims based on rent arrears (Oct 2006), CIH's Protecting your rental income stream (April 2011) and How to manage income collection effectively (February 2013).

Legislation and Regulation

Welfare Reform Act 2012	Equality Act 2010
Localism Act 2011	Data Protection 2004
HCA regulatory framework – rent	Housing Act 1985
Commonhold & Leasehold Reform Act	
Civil procedure Rules for Pre-action Protocol for Possession Claims for Rent Arrears	

The Policy

We aim to help tenants whilst protecting rental income. We will pursue all sources of income including service charges, garage rents and recharges. Rent should be paid in advance in accordance with the Tenancy Agreement. However, it is recognised that sometimes tenants have problems with paying their rent on time. The aim is to maximise rental income through a prompt, effective and proportionate approach to recovery of rent arrears. We aim to prevent arrears arising wherever possible and minimise rent arrears where they cannot be prevented.

The policy highlights the following

- Preventative action
- Incentives to pay rent
- Welfare reform
- Information and support for those in arrears
- Action to recover arrears

Arrears will be managed by specialist staff whose role is dedicated only to arrears management. Staff will support tenants and give advice ensuring they assist tenants to maximise their income and manage their money effectively. Staff have a key role to play in ensuring tenants understand the changes imposed by welfare reform and what it means for them. The focus will be on personal contact and staff will intervene early to avoid unmanageable debts building up. The use of available technology will be maximised to assist with the efficient management of rent arrears.

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1 Preventative Action

We will allocate properties appropriately in accordance with Keniston's allocations policy. Prior to the allocation of a tenancy a financial assessment will be made for those affected by welfare reforms to assess whether the property rent is affordable.

Before the tenancy commences, the Association will explain to the prospective tenant(s) the need for regular prompt payment of rent, methods of payment and will assist tenants who claim Housing Benefit. Staff will establish any special circumstances e.g. supported needs or translation requirements and make referrals to appropriate agencies.

New tenants will be risk assessed to assess vulnerabilities and whether further discussion or support is needed.

All new tenants are visited by the Rent Income Officer to promote a payment culture and enable early identification of any problems. Emphasis will be placed on the importance of paying rent in advance and contacting their Rent Income Officer if they foresee any problems.

Staff will communicate in as many ways as possible, directly to tenants, via tenants meetings, newsletters and the website.

The Association will promote to tenants the need to pay rent regularly, support and advice available for people in rent arrears and the consequences of non-payment.

Staff will assess tenant's financial capability to make up any shortfalls, and provide support or refer to appropriate agencies around this.

Flexible ways of paying rent will be offered to make it as easy as possible for residents to make payments. Tenants receiving Universal Credit and tenants in employment will be encouraged to pay by Direct Debit.

Rent statements will be issued to residents every three months and when requested.

Tenants paying in arrears via Housing Benefit are encouraged to begin making payments to bring their rent accounts into credit in accordance with their tenancy agreement. This is to assist tenants manage the transition to Universal Credit.

The Association's system allows text messages to be sent to mobile phones. An appropriately worded late payment reminder or broken agreement reminder text message will be sent. Residents can also communicate with us via email if they wish.

2 Welfare Reform

The Welfare Reform Act has fundamentally reformed payment of benefits including housing Benefit. Housing Benefit will cease to exist over the next few years. Where rent arrears accrue as a result of welfare reform changes, the Association will take action on rent accounts as per this policy.

Tenants who are under occupying their homes and have their Housing Benefit reduced will be expected to make up the shortfall in their rent.

To minimise the impact of welfare reform we will profile our tenants to target our resources effectively and tailor information for individuals and groups of tenants.

Staff will assist tenants to cope with changes to the benefit system, and to cope financially with the transition in and out of work.

Following introduction of Universal Credit, the Association will assist tenants in making and updating claims for Universal Credit. Where a tenant meets any of the criteria for an 'alternative payment arrangement' we will apply for such a payment to be made.

As benefit cases become the responsibility of the DWP the Association will offer such assistance as possible, however the nature of Universal Credit claims and the emphasis on tenants assuming responsibility for their claims may prevent us from acting on the tenants behalf.

The Association participates in the Housing Benefit verification framework for Bromley Council on behalf of the Local Authority. We will ensure that all the required information is provided at the beginning of the Housing Benefit claim and that it is verified as correct. This enables Housing Benefit applications to be processed more quickly.

3 Incentives to Pay Rent

A quarterly prize draw and an extra one at Christmas will be held for tenants whose rent has been clear for at least four weeks.

Tenants applying for a transfer will be advised that unless in exceptional cases, their application will not be considered unless they clear their arrears and maintain a clear rent account for 6 months. Although a transfer request may be approved, an offer of alternative accommodation may be conditional on the arrears being substantially reduced or cleared.

Any rent arrears must be cleared on the old joint tenancy before a sole tenancy is granted, as the new tenant cannot be held responsible for any debt that accrued whilst the tenancy was a joint tenancy.

Certain planned replacements in the stock reinvestment programme (New kitchens, bathrooms and internal doors) will not be undertaken for residents who are in arrears. This will mean in most cases that the improvement will be deferred to the next year's programme. Exceptional issues regarding incentives will be agreed at the Complaints and Resolutions meeting.

4 Information and Support for those in arrears

- 4.1 It is recognised that some tenants experience financial hardship. Keniston seeks to provide support to those in arrears due to financial hardship to help prevent arrears increasing which may lead to eviction. In these circumstances, Keniston will ensure tenants are actively encouraged to claim Welfare Benefits to which they may be entitled.

- 4.2 Because of vulnerability certain recovery actions may not be appropriate in individual's circumstances. It is important in cases involving vulnerable residents that all relevant facts are taken into consideration and that all appropriate agencies are involved.
- 4.3 Staff will be knowledgeable and trained in welfare and Housing Benefit advice and able to refer to other agencies where appropriate.
- 4.4 Staff will assist tenants to become financially capable, helping tenants to access transactional bank accounts and affordable credit.

5 Action to Recover Arrears

- 5.1 Early and personal contact with the tenant is essential. In the first instance Staff will attempt to make contact with the tenant either by telephone or face to face. Effective recovery and management of rent arrears is unlikely to occur unless personal contact is made with the tenant.
 - 5.2 Staff will identify tenants in arrears who are vulnerable and tailor their approach appropriate to their needs.
 - 5.3 Staff will make every effort to communicate with tenants at trigger points of the arrears procedure e.g. at the start of the tenancy, prior to legal action and prior to eviction. We will seek possession on mandatory ground for starter tenancies where there has been no engagement.
 - 5.4 Keniston will take early arrears recovery action and will seek a realistic repayment arrangement to clear arrears having regard to the tenant's income and outgoings. We will expect low level debts to be cleared in a single payment and will only agree to instalments which do not exceed 6 months.
 - 5.5 Where early action is not effective in controlling the debt, a more assertive response is required by the Association to ensure that arrears are controlled. The arrears procedure sets out the steps required to achieve this using Notices of Seeking Possession, court actions for possession and eviction.
 - 5.6 We will adhere to all the requirements of the Pre-court action protocol for possession claims.
 - 5.7 When a case is presented to court the Rent Income Officer will generally ask for a Suspended Possession Order where an agreement has been made and it is reasonable to expect payments are likely to continue. Where a tenant has kept to the agreement for a length of time we will generally ask for the case to be adjourned.
 - 5.8 All reasonable, fair and legitimate means will be used to investigate a tenant's circumstances before taking action. This may include using investigation agencies.
 - 5.9 Costs will be applied for where the Association is successful in obtaining an order for possession. We will ensure a money judgement is included in the order.
 - 5.10 If a Suspended Possession Order is granted and subsequently breached, no more than 3 opportunities will be given for the tenant to remedy the breach. Should the breach not be rectified quickly then an application will be made to the Court for permission to apply for a
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warrant for eviction.

- 5.11 Eviction is seen by the Association as the last resort in managing rent arrears. Apart from the human cost, evicting a tenant can result in a debt having to be written off. Every eviction requires the approval of the Board.
We will oppose any application to stay the execution of the warrant unless payment to clear the shortfall is made in full.
- 5.12 Staff will do all they can do to avoid eviction e.g. offer advice and support, consider whether vulnerability is a factor in their non-payment, and make referrals to advice providers or support services.
- 5.13 Where there is non-engagement, we will persist by all means of communication. Eviction will also be considered where there has been persistent non-engagement from the tenant.
- 5.14 Staff will work in partnership with Local Authorities to avoid evictions and homelessness. We will ensure appropriate referrals to homelessness and other housing advice services are made when taking possession action
- 5.15 Developing a culture of and responsibility for payment is central to effective arrears recovery. However a reasonably tolerant approach will be adopted towards a resident in financial hardship to maintain an agreement.
- 5.16 Where the phasing of Housing Benefit payments direct to the Association is the cause of arrears, the Association will suspend arrears recovery action.

Where there is a high static arrear, we will consider obtaining a money judgement.

- 5.17 Staff, when possible, will liaise with relevant Housing Benefit departments on tenant's behalf and it should always be stressed to tenants that it is their responsibility to ensure any claim is applied for and pursued. Where authorised to do so we will contact Housing Benefit offices and seek prompt payment of any outstanding claim / reassessment of benefit where arrears have reached a level of legal action.
- 5.15 In general the arrears procedure should be followed by staff. However it is acknowledged that discretion of staff is (often) appropriate. This is usually in the cases where Housing Benefit has been suspended or when claiming Universal Credit. Staff will ensure prompt action in every case as appropriate.
- 5.16 Each year targets will be set for improving the management of rent arrears. Performance in achieving these targets and in other areas of arrears management will be monitored monthly by the Management Team and Quarterly by the Board.

The Association will consider whether alternatives to repossession action such as attachment of earnings where such action is possible and show a good prospect of success will be considered in relation to the information held about employment, the level of salary and any other salary deductions known to be in effect.

6 Former tenants

- 6.1 The Association will always pursue the recovery of debts left by former tenants. Former tenant arrears will be monitored on a monthly basis.
- 6.2 Thresholds will be set which will determine the extent of action to be taken in various circumstances.
- 6.3 The Association will use tracing agents, and will also use debt collection agencies where its own actions have been or are unlikely to be successful.
- 6.4 Any action taken to pursue and recover former tenant arrears must be cost effective to the Association. Former tenants' arrears may be written off when actions according to the procedure have been unsuccessful in recovering the debt. Thresholds will be set for the limit of arrears which the Chief Executive can write off. All other arrears must be written off by the Board.

The decision to take legal action to recover former tenant arrears is a judgement based on the information available concerning the former tenant's current circumstances, how these impact on the likelihood of collection and the costs of legal action.

If the arrear is high, and we have a good chance of recovery we will proceed with legal action such as attachment of earnings or a money judgement.

- 7. Credit Balances
We will check rent accounts in credit on a quarterly basis and advise tenants in credit to amend their payment and arrange any refunds. If a tenant does not want a refund, they will be asked to put their reasons in writing.
- 8. Leaseholders
Keniston recognises that at times our leaseholders may suffer from financial hardship that makes it difficult for them to meet their commitment to pay the service charge. We will ensure a consistent approach whilst taking into account individual circumstances.

If a Leaseholder fails to repay the debt, we will seek to recover the debt more formally. This may include writing to a mortgage provider to repay the debt, application for a money judgement or when all other measures have failed an application to court for forfeiture of the lease can be made.

APPENDIX TO RENT POLICY

Background

Housing Associations can use the mandatory Ground 8 under the Housing act 1988 as amended by the Housing Act 1996 in exceptional cases. It can only be used for assured and starter tenancies, not secure tenancies.

Ground 8 can be used where the tenant has arrears of more than 8 weeks rent at the date of service of the Notice of Seeking Possession and at the date of the hearing. The court has no power to stay or suspend it.

Procedure

We will consider using Ground 8 on an exceptional rather than routine basis. Before using Ground 8, we will review the tenant's whole situation and first pursue all other reasonable alternatives to recover the debt. We will comply with the requirements in the rent arrears pre-action protocol taking possession action only as a last resort. We will carry out vulnerability checks. In order for a Ground 8 case to be considered by the HSM, the officer will set out the exceptional reasons. Wherever possible, we will ensure that the tenant understands the significance of a Ground 8 notice.

Subject to the above, Ground 8 can be considered in the following circumstances:

- In cases where tenants are not taking responsibility for the processing of Housing Benefit claim, e.g. non-compliance with request for information.
- In cases of arrears arising from a fraudulent housing benefit claim
- In cases of an escalating arrear where no co-operation between the tenant and the Association can be established.
- Non-payment without cause i.e. wilful or where there is evidence of attempts to mislead us.
- Non-engagement and no contact from the tenant
- A history of non-payment of rent over a sustained period of time, or where a tenant has repeatedly gone into high arrears and has a history of court action and suspended orders.

Ground 8 will not normally be considered in the following circumstances:

- Frail older tenants
- Tenants with mental health problems
- Tenants with learning difficulties
- Tenants with existing support from social / care services.
- Where a tenant is co-operating and taking some responsibility.
- Where there is pending decision on Housing Benefit

We would include the discretionary rent arrears Grounds 10 and 11 as well as Ground 8, keeping our options open by only making a decision just prior to court as to which ground we would rely on.

Agreed by the Board on 11th May 2017; next review date April 2019