



## **Southside Housing Association**

### **Rent Management Policy**

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Appendix 1 - Legislation Relevant to the Recovery of Rent and Rent Arrears, and Legal Proceedings Related to Rent Arrears

### Notes

- 1) Throughout the Policy, we refer to the Association as “SHA” or “we”.
- 2) Related Policies: Policy on Former Tenant Arrears and Policy on Managing Sharing Owner Debts

This Policy can be made available on request in different formats. For example, in larger print or audio-format, and in other languages if required. The Association has a number of staff who are bilingual and we can also arrange access to interpreting services.

## 1. Policy Purpose, Aims and Objectives

### Section summary

The aims of the Rent Management Policy are to ensure that Southside Housing Association (SHA) collects rent in an efficient and effective manner, while also providing tenants with advice and support to help them pay their rent and sustain their tenancies.

The objectives of the Policy include promoting arrears prevention; ensuring that tenants are clear about their obligations for paying rent and repaying any arrears; intervening effectively when arrears do occur, through personal contact and sustainable plans for repayment; helping tenants to maximise their incomes; and taking legal action only where necessary.

### Policy Purpose

- 1.1 This Policy sets out SHA's framework for rent management, including the recovery of rent arrears. The Policy is supported by operational procedures to assist with implementation.

### Policy Aims and Objectives

#### Policy Aims

- To collect rent in an efficient and effective manner.
- To provide SHA's tenants with advice and support to help them pay their rent and sustain their tenancies.

#### Policy Objectives

- To maximise rental income and minimise rent arrears, so that SHA has the resources needed to provide quality services and invest in tenants' homes and neighbourhoods.
- To comply with prevailing legislation and regulatory requirements.
- To communicate clearly and consistently tenants' responsibility for paying their rent on time, and to repay any rent arrears.
- To promote arrears prevention and tenancy sustainment.
- To maximise direct, personal contact with tenants who have rent arrears.
- To take a firm but fair approach to arrears recovery, ensuring that we are responsive to tenants' individual circumstances and sensitive to financial hardship.
- To help SHA tenants to maximise their incomes and manage other debts.
- To take legal action only where necessary, using eviction only when we have exhausted all other options.
- To help prevent homelessness, by offering tenants information and support and making referrals to other agencies where appropriate.
- To ensure excellent joint working between SHA's Income Maximisation Team, Neighbourhood Team and Advice Teams, and effective Management Committee and senior management scrutiny of performance.

## 2. Equality and Diversity

### Section summary

We want equality and fairness to be central to how we deliver our services to our diverse communities. SHA recognise our obligations under the Equality Act 2010 to eliminate unlawful discrimination and harassment, advance equality of opportunity, and to promote good relations between all sections of our communities. Beyond meeting our legal duties however, we recognise that promoting equality and fairness is simply the right thing to do. We want SHA to be recognised as an open and welcoming place for all.

In relation to this Policy, SHA will give particular importance to making the rent management service accessible to all; engaging with tenants in a way that reflects their individual needs; and providing benefits and debt advice to tenants who are struggling to pay their rent due to very low incomes.

- 2.1 An Equality Impact Assessment (EqIA) (Appendix 2) has been carried out in relation to this policy to assess the positive and negative Equality Impacts of this Policy.
- 2.2 In applying the Rent Management Policy, SHA will ensure it complies with the Equality Act 2010. The Act makes it unlawful to discriminate against, harass or victimise a person because they have one or more of the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.
- 2.3 SHA has set specific equality and diversity standards in our Equality and Diversity Policy. Our approach to rent management will tackle inequality by:
  - Taking account of the individual circumstances of the tenant and their household
  - Identifying and supporting tenants who may be vulnerable
  - Showing fairness and respect in all of our dealings with tenants.
  - Providing in-house advice services, to help maximise tenants' incomes and deal with debt issues.
  - Making language and communication assistance available to customers who need this. This may include customers with sight, hearing, cognitive or learning difficulties, or those who find it difficult to speak or understand English.

## 3. Legal and Regulatory Requirements

### Section summary

This section affirms that SHA will comply with all current legislative and regulatory requirements, and briefly describes the primary obligations that relate to rent arrears and legal action. SHA's services must also be provided in accordance with wider legal obligations, for example in relation to equality, human rights and data protection.

- 3.1 In implementing this Policy, SHA will comply with all current legislative and regulatory requirements. This section provides an overview of the requirements that apply to our rent management services, while Appendix 1 lists all of the applicable legislation.

## Housing Legislation

3.2 The Housing (Scotland) Act 2001 established the **Scottish Secure Tenancy (SST)**.

- SHA uses the Model SST Agreement. This describes the contractual rights and obligations of landlord and tenant, including the tenant's obligations to pay rent and service charges and how often payments must be made.
- The 2001 Act and the Model SST Agreement also set out the steps that social landlords must follow with regard to rent reviews and increases.

3.3 Part 2, Chapter 1 (as amended) and Schedule 2 of the 2001 Act set the framework for legal action to recover possession of a tenancy. The grounds for taking action include non-payment of rent arrears. Other matters dealt with in the 2001 Act are:

- Proceedings for possession
- Pre-Action Requirements where grounds for possession include rent arrears<sup>1</sup>
- The rights of qualifying occupiers if action is taken to recover a tenancy
- The powers of the court in possession proceedings.

## Wider Legislative Requirements

3.4 SHA must also comply with other legislation that is applicable to all of our services. The most important of these obligations are found in:

- The Human Rights Act 1998
- The Equality Act 2010
- The Data Protection Act 2018 and UK General Data Protection Regulations (UKGDPR)
- The Debtors Arrangement and Attachment (Scotland) Act 2002.

## Scottish Social Housing Charter (the Charter)

3.5 In performing our housing activities, SHA must meet the outcomes and standards set out in the Charter, which is approved by the Scottish Parliament.

3.6 The Scottish Housing Regulator is responsible for scrutinising performance in relation to the Charter, taking enforcement action where necessary. The Regulator collects and publishes statistical information about each social landlord's performance, and it has powers to conduct inquiries into specific aspects of service delivery if it considers that a landlord's performance is poor, or in response to tenant complaints.

3.7 The Charter outcomes and standards most relevant to rent management are:

- Outcome 1: Equalities
- Outcome 11: Tenancy Sustainment
- Standard 13: Value for Money
- Outcomes 14 and 15: Rents and Service Charges

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<sup>1</sup> Amendments were made to the 2001 Act as a consequence of section 155 of the Housing (Scotland) Act 2010

3.8 SHA will address all of the standards and outcomes described in the Charter, across all of our service areas. We will report annually to both SHA tenants and the Scottish Housing Regulator on our performance in relation to the Charter, and in line with the Regulatory Requirements CH1 – CH5 set out in The Scottish Housing Regulator: *The Regulation of Social Housing in Scotland: Our Framework* (2019).

## 4. Arrears Prevention

### Section summary

Arrears prevention is central to SHA's Income Maximisation approach.

SHA will address this by promoting a rent payment culture; offering a wide choice of payment methods; providing welfare benefits and debt advice; being flexible about rent payment dates, where appropriate; and providing quality information about rent payment and rent arrears.

### Rent Payment Culture

4.1 SHA will promote a rent payment culture, so that tenants understand the importance of paying rent for their own tenancy and how this helps to sustain services and investment that will benefit all of SHA's tenants and neighbourhoods. We will do this by:

- Offering a choice of methods for paying rents
- Consulting all of our tenants on rent reviews and increases
- Engaging with new and existing tenants on a one-to-one basis
- Providing income maximisation and debt management services, through SHA's in-house Advice Team and signposting to external services where appropriate.
- Providing informative, easy to understand information materials
- Conducting wider rent payment campaigns, when required.

### Rent payment methods

4.2 SHA offers the following rent payment methods, to provide choice and convenience.

- Allpay, which allows tenants to pay their rent at Post Offices or at local Paypoint and Payzone service points
- By Standing order
- By Direct Debit
- By cheque
- By debit or credit card, over the phone or at our office
- By tenants consenting to direct payment to SHA of Housing Benefit or Universal Credit.
- By direct payment to SHA, if a tenant owes more than 8 weeks rent and requests that deductions from their benefits are made to help reduce their arrears.

### Rent Payment Dates

4.3 The Model Scottish Secure Tenancy document states that rent and other charges should be

paid monthly in advance.

- 4.4 **For new tenancies**, SHA will take payment of rent in advance when this is possible. We will apply flexibility for new tenants on benefits who are unable to pay rent in advance.
- 4.5 **For existing tenancies**, our standard rent payment date is no later than the 27th of each month. This may be varied if agreed with us in advance, for example to align with when working tenants receive wages.

### **Housing Applicants and New Tenants**

- 4.6 SHA will provide prospective tenants with clear information about their obligations to pay rent, before a new tenancy starts. We will help with applying for Universal Credit and other benefits, if needed, and with referral to external agencies that can offer advice or support.
- 4.7 New tenants will receive a settling-in visit within 6 weeks of the start of their tenancy, when we will establish that rent payments have been made, any action needed if they have not, and any support the tenant may need.

### **Tenant Communication**

- 4.8 SHA will always seek to make and maintain personal contact with tenants, respond to reminders about missed payments and/or pay promptly the rent owed. In doing so, our aim is to work with the tenant to prevent rent arrears from increasing to a level that will be harder for the tenant and SHA to manage.
- 4.9 SHA will provide every tenant with a rent statement every 12 months, and at any time on request.
- 4.10 We will make sure that communication and materials regarding rent management are clear, concise and easy to understand. The methods used will include quarterly tenant newsletters, tenants' meetings, information available at SHA's offices, face-to-face communication with tenants, website, MySouthside and our Facebook page. We will also offer language interpretation and alternative information formats as required.

## **5. Management and Recovery of Rent Arrears**

### **Section summary**

SHA's approach to managing and recovering rent arrears is based on establishing direct personal contact with tenants who have missed a rent payment or broken a repayment arrangement. Our aim is to have rent arrears cleared or, if this is not possible, to agree a realistic repayment arrangement which the tenant will adhere to.

As at all other stages, efforts to recover the arrears owed will be accompanied by offering any practical support tenants may need, for example help with income maximisation, referral to debt management advice and referral to any relevant external services.

### **Role of SHA's Income Maximisation Team**

- 5.1 SHA's Income Maximisation Team is responsible for managing and recovering current and former tenant arrears, credit accounts, benefit overpayments and refunds.
- 5.2 The Income Maximisation Team works closely with SHA's Neighbourhood and Advice Teams, to ensure an integrated approach to arrears management, tenancy management and

the provision of advice and support to our tenants.

### **Contact with Tenants**

- 5.3 At all stages of managing arrears, SHA will have a number of communication methods at its disposal.
- 5.4 The Income Maximisation Team will review all rent accounts monthly, taking follow-up action in all cases that require this.
- 5.5 SHA will contact the tenant at the earliest opportunity if we become aware that Housing Benefit or Universal Credit have been reduced or cancelled. We will offer assistance with an appeal, if appropriate.
- 5.6 If our initial reminder letter does not result in payment of the arrears, we will move quickly to establishing direct personal contact with the tenant, in the first instance by telephone and then by arranging arrears interviews in all cases that require this.
- 5.7 We will use arrears interviews to identify any positive solutions that may enhance the tenant's ability to pay the rent owed, for example through income maximisation or debt management advice.
- 5.8 SHA will also seek to agree with the tenant a realistic and sustainable arrangement for repayment of the arrears owed. The arrangement will seek to reduce the debt as quickly as is reasonable, based on an assessment of the tenant's household income and expenditure. If immediate payment of the balance owed is not a realistic option, we will seek an arrangement to pay off the arrears by instalments.
- 5.9 The Income Maximisation Team will be sensitive to the stress caused by financial hardship and debt, and will aim to be flexible and to take account of all relevant circumstances. We will monitor all repayment arrangements carefully and take immediate action if the agreed repayments are not maintained. In these circumstances, we will seek a further personal discussion with the tenant. Where necessary, we will provide clear advice about the steps that we may need to take next, unless the tenant engages with us to reduce their arrears.
- 5.10 SHA will not take further action as long as agreed payments are made. We will always make strenuous efforts to persuade the tenant to keep to the arrangement rather than moving quickly to legal action.

### **SHA Management Committee Members with Rent Arrears**

- 5.11 SHA will apply our arrears procedures as normal for any Management Committee members who are SHA tenants and who have rent arrears. However, in accordance with SHA Rule 43.1.3, a committee member will no longer be eligible to be a Management Committee member if the Association begins court proceedings to recover their tenancy.
- 5.12 A committee member in rent arrears must declare an interest at any meeting where the matters being discussed involve rent arrears in line with SHA's Code of Conduct for Governing Body member. In such circumstances, we will follow the procedures described in SHA's Rules (Rule 38.2).

## 6. Legal Action and Court Action

### Section summary

SHA will begin legal action to recover a property only when all other reasonable steps to recover the rent that is owed have failed. If we consider that legal action is needed, we will comply with the statutory “Pre-Action Requirements” before serving a Notice of Proceedings.

At this stage, and in the course of any court proceedings, we will continue to seek a resolution to the tenant’s rent arrears. As a responsible social landlord, SHA will take all steps possible to prevent court proceedings resulting in eviction.

### Notice of Proceedings

- 6.1 SHA will begin legal action for recovery of a property only when all other reasonable steps to recover the rent that is owed have failed. We will do this by serving a Notice of Proceedings (“a Notice”) on the tenant, joint tenant and any qualifying occupiers.
- 6.2 We will not begin repossession proceedings where the tenant can demonstrate that their arrears may be paid following payment of a claim for Housing Benefit or Universal Credit.
- 6.3 SHA will serve the Notice on Ground 1, Schedule 2, Part 1 of the Housing (Scotland) Act 2001. The Notice will advise the tenant that SHA is considering court action to recover possession of the property because of the tenant's rent arrears.
- 6.4 The Income Maximisation Team will issue the Notice which lasts for six months from the expiry date. During this time, SHA will make continued attempts to seek payment of the arrears owed.

### Pre-Action Requirements

- 6.5 SHA will only serve a Notice where the Pre-Action Requirements set out in legislation and statutory guidance have been met in full.<sup>1</sup> We will evidence our compliance by recording the actions we have taken to resolve the arrears up to the date when the Notice is served.
- 6.6 The Pre-Action Requirements that SHA must meet relate to:

- Providing clear information to the tenant;
- Giving help and advice on eligibility for Housing Benefit and other financial assistance;
- Providing information about sources of help and advice with the management of debt;
- Seeking to agree with the tenant a reasonable plan for future payments;
- Considering the likely result of any application for Housing Benefit still to be decided;
- Considering other steps the tenant is taking that are likely to result in payment;
- Considering whether the tenant is complying with an agreed plan for future payments;

<sup>1</sup> Pre-Action Requirements are set out in sections 4 to 16 of the Housing (Scotland) Act 2001, as amended by sections 153 and 155 of the Housing (Scotland) Act 2010; and in the statutory guidance document “Guidance for Social Landlords on Pre-Action Requirements and Seeking Repossession of Social Housing” (Scottish Government, 2012)

- Encouraging the tenant to contact the local authority.

6.7 SHA will make all reasonable efforts to resolve the arrears before serving the Notice. We will also consider any support needs the tenant may have, and we will make sure that information is communicated in a way that is easy to understand.

### **Court Action and Eviction**

6.8 After serving the Notice but before the issue of proceedings, SHA will make reasonable attempts to contact the tenant in person to discuss the reasons for arrears, repayment and the position with Housing Benefit or Universal Credit.

6.9 The Senior Management Team member with responsibility for Neighbourhood Services will decide whether court action should be taken, before a case is booked to court. SHA will notify the local authority if we have issued a Notice and if, at a later stage, an eviction is to take place. We will keep the tenant informed throughout the legal process, up to and including court action and the date of an eviction.

6.10 SHA will take advice from its Solicitor on the type of legal action involved. In a Repossession Action, the case may be sisted (postponed) if the tenant makes an arrangement to pay before the calling date at the court. This allows the tenant's stated intention to pay to be monitored, with the case being recalled if the payments are not maintained. If the balance owed is repaid, SHA will still go to court to obtain a decree for expenses.

6.11 We will continue to pursue the debt and seek the tenant's co-operation throughout the legal process. If no satisfactory offers are made to repay the arrears, we will ask that the court grants a decree for eviction.

6.12 As a responsible social landlord, SHA will take all steps possible to prevent an eviction and we will ensure that all of the following factors have been considered:

- Every attempt has been made to contact the tenant.
- The tenant is receiving all of the benefits to which they are entitled.
- As applicable, direct payments to SHA have been arranged for Housing Benefit or Universal Credit; Arrears Direct; or Universal Credit Alternative Payment arrangement.
- If employed, earnings arrestment has been considered.
- Assistance has been sought from relevant statutory and voluntary agencies.

6.13 If the court grants an order for possession of the property, we will end the tenancy on the date we recover possession. This provides a final opportunity for the tenant to clear the arrears in full right up to the date of the eviction, in which case the eviction would not take place. We may also accept an arrangement that would clear the arrears within a period not exceeding 5 months, before the expiry of the period in which the decree is enforceable.

6.14 As set out in the Association's Scheme of Delegated Authority the Management Committee has the authority to approve enforcement of a decree for eviction.

## **7. Housing Allocations and Rent Arrears**

7.1 If a housing applicant has any outstanding rent arrears or other tenancy-related debts (such

as rechargeable repairs), SHA will apply the conditions set out in housing legislation.<sup>1</sup>

7.2 This means that for arrears/debts greater than one month's rent, SHA may suspend making any offer of housing until the applicant has:

- Made a reasonable arrangement to pay the debt.
- Kept that arrangement for at least three months.
- Continued to maintain the arrangement if there is still a balance outstanding after the applicant becomes eligible to receive an offer of rehousing.

7.3 These conditions apply to all external applicants who have previously had a SHA tenancy (including section 5 referrals), and to current SHA tenants seeking a housing transfer.

7.4 SHA will treat the applicant as having a clear rent account for the purposes of their housing application, if their arrears are due to a delay in Housing Benefit/Universal Credit payments for which the applicant is not responsible.

7.5 SHA may apply flexibility in applying the conditions described at 7.2 if urgent rehousing is needed due to exceptional circumstances. Senior Management Team member with responsibility for Neighbourhood Services has authority to approve an offer of housing provided that small regular payments are being maintained.

## 8. Performance Management

8.1 SHA will set annual targets for rent management, based on appropriate key performance indicators such as:

- Gross rent arrears, for current and former tenants
- Gross rent arrears, for current tenants only [*Charter Indicator*]
- Rent collected from current tenants as a proportion of rent due that financial year [*Charter Indicator*]
- Amount and percentage of former tenant rent arrears written off at the year-end [*Charter Indicator*].

8.2 SHA will also monitor and report on non-technical arrears. This covers arrears owed by current tenants, net of technical arrears (Housing Benefit or Universal Credit payments which tenants are due to receive but which have not yet been paid to them).

8.3 SHA's Management Committee will receive information about SHA's overall performance in providing housing services, including rent management. The Management Committee's role will be to maintain strategic oversight of performance, to review current or emerging risks, and to be aware of any evictions that have taken place.

## 9. Complaints

9.1 A tenant may submit a complaint if they feel that SHA has not applied the Rent Management Policy correctly, or if they are dissatisfied with the standard of service SHA has provided.

9.2 We will deal with complaints in accordance with SHA's Complaints Handling Procedure.

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<sup>1</sup> Section 20 (2) (ii) of the Housing (Scotland) Act 1987, as amended by section 10(4) of the Housing (Scotland) Act 2001

Tenants can also refer complaints to the Scottish Public Services Ombudsman, if they have exhausted SHA's Complaints Handling Procedure and remain dissatisfied with our response.

## **10 Risk Management**

10.1 SHA will be proactive in managing rent management risks. We will do this by:

- Monitoring rent payment patterns closely
- Evaluating the impact of rental income on SHA's cashflow and the financial assumptions used in our business plan
- Ensuring we achieve higher levels of contact with tenants who need this
- Providing support to tenants who are struggling financially, through SHA's Income Maximisation and Advice Teams
- Adopting a flexible approach to repayment arrangements with tenants who are waiting for their first Universal Credit payment.

## **11. Policy Review and Consultation**

11.1 This Policy will be reviewed every three years or more frequently if required. We will seek to involve our tenants in reviews of the Policy.

## **Appendix 1**

### **Legislation Relevant to the Recovery of Rent and Rent Arrears, and Legal Proceedings Related to Rent Arrears**

#### **Housing and Homelessness Legislation**

Housing (Scotland) Acts 1987, 2001 and 2010

Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012

Scottish Secure Tenancies (Proceedings for Possession) (Pre-action Requirements) Order 2012

Scottish Secure Tenancies (Proceedings for Possession) (Form of Notice) Regulations 2012

Scottish Secure Tenancies (Proceedings for Possession) (Confirmation of Compliance with Pre-Action Requirements) Regulations 2012

Homelessness (Scotland) Act 2003

#### **Other Relevant Legislation**

Debtors (Scotland) Act 1987

Debt Arrangement and Attachment (Scotland) Act 2002

Data Protection Act 2018 and UK General Data Protection Requirement (UKGDPR)

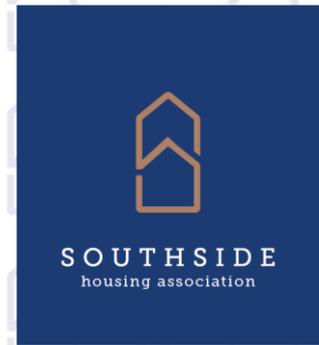
The Children (Scotland) Act 1995

Human Rights Act 1998

Matrimonial Homes (Family Protection) (Scotland) Act 1981

The Civil Partnership Act 2004

Equality Act (2010)



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