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Appendix 1 - Sequestration (Trust Deeds) – GENERAL GUIDANCE ONLY

1. INTRODUCTION

- 1.1 We are a locally based housing association operating across a number of neighbourhoods and communities throughout the south side of Glasgow.
- 1.2 Since we were established in 1971, we have built up our current stock of homes through tenement rehabilitation, new build housing programmes and stock transfers. We now have around 2260 units for social rent, and just over 200 for mid-market rental in the areas where we operate. In addition, we provide property factoring services to around 880 privately owned properties.
- 1.3 Our main geographical areas which we operate in as a landlord are in Pollokshields (including parts of Kingston and Tradeston), Cardonald and Halfway. These areas account for 90% of our housing stock, while we also provide housing in Shawlands, Strathbungo, Ibrox, Kinning Park, Langside and Mount Florida.
- 1.4 We deliver a comprehensive range of services, all focused on the needs of our customers and communities. These services include tenancy and neighbourhood management; repairs and property management; property development; asset management; housing support services; concierge; environmental works; income advice; and community development and support. We work closely with our subsidiary company, Southside Lettings (Scotland) Ltd which provides letting services for a significant portfolio of Mid-market rent housing.
- 1.5 We are governed by our Management Committee, which is supported by a number of sub-committees. Our governance arrangements set out clearly the roles and responsibilities of our Committee members and our staff.

2.0 OUR VISION AND VALUES

- 2.1 Our Vision is **Impacting and improving people's lives in a positive way.**
- 2.2 Our Values represent the ethics and principles that our people value most and which reflect us as an organisation. At Southside Housing Association (SHA) we want to live our values and incorporate them into everything that we do. Our values are:

Respect We will put people first, prioritise relationships, be kind and helpful and treat others as we would want to be treated.

Integrity We will conduct ourselves with honesty and transparency.

Positive We will focus on positive outcomes and be solution focused.

Responsible We will be dependable professional, reliable and consistent.

3.0 POLICY PURPOSE, AIMS & OBJECTIVES

- 3.1 It is our aim to act to prevent rent arrears building up and be a pro-active landlord who is approachable and supportive in working alongside tenants to understand their responsibilities and the importance of paying their rent.

We will recover arrears fairly and effectively in accordance with this Policy, whilst also providing tenants with advice and support to help them sustain their tenancy. Ultimately, we want tenancies to be successful and due to the vulnerabilities and complexities of many of our tenants it is important that we have a supportive culture and approach from staff, whilst being clear about the responsibilities and support needs of tenants.

- 3.2 This policy seeks to minimise loss of rental income by prompt, effective management, recovery and control of arrears and to provide a service to tenants whereby they are given advice and assistance to maximise their income and minimise their debt.
- 3.3 Rent is the Association's main source of income and it is therefore essential that arrears are kept to a minimum and rental income maximised. This policy will outline the key areas of operation for rent management within the Association.

3.4 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 our Housing Management Teams, Welfare Rights and Money Advice Team.

4 RISK MANAGEMENT

- 4.1 By having a Rent Management Policy, we are able to ensure that a consistent and professional approach is applied throughout the

organisation and the service delivered is compliant with law, best practice and internal policy as well as being aligned with our values.

- 4.2 Without a Rent Management Policy, we are at risk of allowing arrears to escalate and in turn, reduce our income flow. As the Association's primary source of income, a high level of rent arrears will reduce the Association's ability to provide essential property and tenancy management services and meet its revenue and loan requirements.
- 4.3 We acknowledge that high rent arrears are a contributory factor in debt, poor tenancy sustainment outcomes, homelessness, and in turn, social exclusion, and as a result this Policy is necessary to be proactive, preventative and where possible and minimise the level of rent arrears among the Association's tenants and Sharing Owners.

5 LEGAL & REGULATORY CONTEXT

- 5.1 The current legal context for the recovery of possession (as a result of rent arrears) is contained within the Housing (Scotland) Act 2001 and grounds are detailed within the Scottish Secure Tenancy Agreement. However, in implementing our approach we are also mindful of our rights and responsibilities contained within other legislation. An example of relevant Acts are: -

- Housing (Scotland) Act 2001, 2010 & 2014
- Housing (Scotland) Act 1998 (shared ownership)
- Homelessness etc. (Scotland) Act 2003
- Welfare Reform Act 2012
- Debtors Scotland Act 1987 – Enables the Association to seek wage arrestment from a debtor
- Data Protection Act 1998 & General Data Protection Regulations 2018– responsibilities for gathering and sharing information – staff should refer to appropriate Policy and subsequent guidance
- Equality Act 2010 – ensures that everyone is treated fairly and given fair chances, and this is done equally across all groups, protected or otherwise
- Children Scotland Act 1995 – Consider implications and options prior to taking recovery action
- Human Rights Act 1998 responsibilities in terms of safeguarding human rights etc.
- Bankruptcy and Diligence etc. (Scotland) Act 2007
- Statutory Instrument 2012 No 127 Pre Action-Requirements Order 2012
- Scottish Social Housing Charter

- 5.2 In developing this policy, we referred to the relevant indicators contained within the Scottish Government's Scottish Social Housing Charter:

1: Equalities

Social landlords perform all aspects of their housing services so that:

Every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

An Equality Impact Assessment (EqIA) (Appendix 1) has been carried out in relation to this policy to assess the positive and negative Equality Impacts of this Policy. The risks of a negative impact of the policy have been scored as 'low'.

In applying the Rent Management Policy, we 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.

Our approach to rent management will tackle inequality by:

- Taking account of the individual circumstances of the tenant and their household
- Identifying and offering appropriate support to 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

2: Communication

Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.

3: Participation

Social landlords manage their businesses so that tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with.

4: Tenancy sustainment

Social landlords make sure that tenants get the information they need on how to obtain support to remain in their home and ensure suitable support is

available, including services provided directly by the landlord and by other organisations.

5: Value for money

Social landlords manage all aspects of their businesses so that tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

6: Rents and service charges

Social landlords set rents and service charges in consultation with their tenants and other customers so that a balance is struck between the level of services provided, the cost of the service, and how far current and prospective tenants and other customers can afford them.

6 RESPONSIBILITY

- 6.1 Operational responsibility for rent management is delegated to our Housing Management Teams. Housing Officers have responsibility for all rent arrears in their allocated patch and are supported by the Assistant Housing Officer. Overall operational control and responsibility for decision making sits with the Director of Housing and Communities.
- 6.2 The Operations Sub Committee and the Management Committee have the authority to uphold or reject a recommendation by the Director of Housing and Communities in respect of an Eviction Report, following a Decree being granted. In addition, the Sub Committee are responsible for monitoring quarterly arrears reports, KPIs and commenting as required.

7 PREVENTING RENT ARREARS

- 7.1 We will operate within and promote a rent payment culture whereby tenants and customers understand the importance of prioritising their 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 payment methods
 - Consulting with 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 our in-house Welfare Rights and Money Advice Team and signposting to external services where appropriate.
 - Providing informative, easy to understand information and communication.
 - Conducting wider rent payment campaigns, when required
- 7.2 The Association will attempt to prevent arrears from arising by always ensuring that we:

- Set rents that are affordable to tenants in low paid employment. This is calculated using a rent-to-income ratio. Rents are set between 25%-30% of average monthly household incomes, taking into consideration various household sizes and the current National Minimum Wage.
- Request that all tenants pay their rent one month in advance in accordance with the Scottish Secure Tenancy Agreement (SST)
- Give the required period of notice and detailed information to tenants where changes in their rent charges are proposed
- Offer a range of payment methods to make it as easy as possible for tenants to pay their rent on time
- Card payments will be paid into the rent accounts within 4 working days
- Direct Debit payments will be paid into the rent account within 2 working days
- Send a payment history to each tenant on request and provide up to date information via the tenant portal on their balance and payment history
- Notify tenants as soon as possible their rent account is in arrears
- Agree a suitable repayment arrangement of any arrears accrued. Where households have multiple debts, support and assistance to access debt management options is available from our Money Adviser.
- Where tenants are entitled to help with their rent through Housing Benefit, Universal Credit and Discretionary Housing Payments, our Welfare Rights staff will advise on entitlement, assist them to apply, maximise the household's income, and provide ongoing support with their benefit claims.

7.3 Pre-tenancy Work

7.3.1 At application stage, we will carry out pre-tenancy work to ensure that future tenants are aware of the importance of paying their rent.

7.3.1 During pre-tenancy work we will inform applicants when they apply for a home with us that if they are offered a tenancy they will pay one month's rent in advance, as outlined in the Scottish Secure Tenancy Agreement. Providing this information in advance demonstrates clear expectations and should afford enough opportunity for a prospective tenant to prepare to cover the first month's rent.

7.3.2 Where a prospective tenant is struggling to pay their first months' rent payment in advance, they should be signposted to the relevant agencies to apply for an advance in their Universal Credit or for Discretionary Housing Benefit to ensure the rent in advance is paid timeously.

7.4 Start of Tenancy

7.4.1 At the start of a tenancy, the new tenant meets with a member of the Housing Management Team to view and complete the relevant documentation and receive information and advice on their tenancy rights and responsibilities. As part of this process the following is covered: -

- 1 month's rent will be due to be paid in advance, on the date the tenancy

is signed, alongside any pro-rata amount from the date of entry until the end of the month.

- Confirm that rent is due regularly and consistently e.g. monthly, and the amount of rent due.
- Agree payment methods e.g. Housing Benefit, Universal Credit, direct debit, cheque, debit card etc.
- Gather information about tenants' personal circumstances, which will assist us to provide appropriate support and advice.

7.4.2 Rent obligations will be made clear at the tenancy sign-up. The monthly rent and the full amount due for the period should be made clear to the tenant. The tenant should also be aware that they should contact their Housing Officer at the early stages of non-payment if this should arise. The sooner they speak with their Housing Officer, the sooner they can receive support and advice.

7.4.3 Where there are legitimate reasons (e.g. wage patterns) flexibility within reason will be applied to when the first rental payment is paid. This will always be at the discretion of the staff members signing up the tenant.

7.4.4 All new tenants will be referred to the Welfare Rights & Money Advice Team who will provide a full benefit check, maximise the household income and ensure the tenant has access to all available support setting up home and sustaining their tenancy. In-house services include Benefit, Debt and Energy advice, and there are established referral pathways in place to external support including Carers services, Jobs & Business Glasgow, Victim Support Scotland and Social Work.

7.4.5 Housing Officers should advise tenants according to their circumstances, and advise that the Welfare Rights & Money Advice Team are available to assist them:

- If the new tenant is currently a tenant of another property and in receipt of Housing Benefit, they should be advised to give their previous Landlord notice immediately. Housing Benefit for their new tenancy will only be paid from the Monday after they move into the new tenancy. From this point, they can claim up to 28 days of the notice period for their previous tenancy.
- If the new tenant is in receipt of Universal Credit, there is no provision in place to claim the notice period for their previous tenancy; they will be paid a full months' rent for the property they have reported to the Department of Working Pensions that they reside in on the last day of their Universal Credit monthly assessment period.
- If the new tenant is currently residing in temporary homeless accommodation and in receipt of Housing Benefit and a legacy benefit i.e. Employment & Support Allowance or is pension age and receiving State Pension or Pension Credit, Housing Benefit can be paid from the date they move into the new tenancy.

- If the tenant is currently residing in temporary homeless accommodation and is in receipt of Housing Benefit and Universal Credit, the new rent should be added to the Universal Credit claim the day they sign for the property, and they will receive a full month's rent at the end of their monthly assessment period.
- If the new tenant is currently not receiving benefits, is working age and on a low income, and they have a possible entitlement to Universal Credit, they should be advised any award will only be made from the date a claim is submitted.

7.4.6 The tenant should be advised they will be liable to pay the full rent for any period not covered by Housing Benefit or Universal Credit. This includes periods where benefit is lost if they delay moving in, delay reporting their change of circumstances to the Department for Work and Pensions or Glasgow City Council, or delay making new benefit claims.

7.4.7 In some circumstances the Welfare Rights & Money Advice Team can provide basic goods to assist new tenants to move in while waiting on awards from the Scottish Welfare Fund where a delay would result in the loss of benefit. They can also assist new tenants to apply for Discretionary Housing Payments to help with moving costs.

7.4.8 The tenant should be advised they need to respond to any requests for information from either Glasgow City Council, Department for Working Pensions or the Association regarding rent or housing costs. Proof of income and capital must be supplied or forwarded to relevant agencies where requested as soon as possible to ensure their benefits are processed.

7.4.9 We will discuss with tenants in receipt of Universal Credit whether they would agree to request direct payments of their housing costs to the Association. Depending on the tenant's circumstances, we may instead request these from the Department of Working Pensions without the tenant's agreement.

7.4.10 Within 8 weeks of the start of a new tenancy, a member of the Housing Management Team will carry out a New Tenant Visit. This is mainly a settling in visit, however issues such as rent, Universal Credit and Housing Benefit will be covered during the discussion, and appropriate advice given.

8 MANAGEMENT AND RECOVERY OF RENT ARREARS

8.1 Our Housing Management system supports us to monitor all rent accounts weekly, highlighting to staff the accounts that are in arrears and require to be further investigated and monitored. This allows staff to make contact with tenants in arrears as per the Rent Management procedure. The Association will use a variety of methods to contact tenants in arrears and record all contact whether by letter, visit, interview, email, text or telephone call on its Housing Management IT system.

8.2 The Rent Management procedure will be followed to ensure compliance with the pre-action requirements which permit staff to issue a Notice of

Proceedings if there is a need to commence legal action.

- 8.3 Interviews should always be attempted when an arrear is accruing to assess the tenant's need for support and to clarify the tenant's circumstances. A referral should be made to the Welfare Rights & Money Advice Team to assess any benefit entitlement or access to grants, and to assist them to manage any other household debt. It should be made clear, if they do not engage with support and continue with non-payment or partial payment of rent, they are at risk of losing their home.
- 8.4 Households at risk of homelessness and households where domestic violence is suspected should be assisted in accordance with SHA's Tenancy Sustainment policy. A bespoke tenancy sustainment plan should be put in place, which will include an action plan to address arrears.
- 8.5 Realistic repayment arrangements should be made taking into account all factors of the tenant's circumstances which could affect their ability to repay the debt within a given time; too high an arrangement is likely to lead to arrears continuing or worsening, too low an arrangement gives the tenant the wrong impression that arrears are acceptable to the Association. Housing Officers can refer the tenant to the Money Advice service for a full income and expenditure and financial statement if they are having difficulty reaching a suitable arrangement.
- 8.6 Arrangements being made should be for a minimum of the rent charge plus £50.00pm towards the arrear or with an aim to clear the arrears in full within a maximum of 12 months, whichever is less. Tenants who cannot afford £50.00pm towards their arrears or taking longer to clear than the prescribed 12 months will be at the discretion of the Housing Manager.
- 8.7 If a tenant is on Housing Benefit and in arrears, they should be advised that Arrears Direct payments may be requested which allows weekly deductions from their benefit. Where a tenant requests that this does not happen and if applicable, an arrangement should be put in place and the tenant should be advised that if the arrangement is broken, we will apply directly to the Department of Working Pensions for arrears direct to be forwarded to us. The tenant should also be encouraged to make weekly payments (over and above the direct payment) where possible, to reduce the debt, especially where the debt is likely to take a considerable time to clear.

Entering into "arrears direct" will not always preclude the Association for continuing to pursue legal action, should the debt be high. It should be noted that there is a criteria for granting these Payments, in terms of benefit eligibility and arrear amount – currently the tenant must be 4 weeks in arrears over an 8-week period.

- 8.8 For tenants in receipt of Universal Credit, staff should encourage recipients to agree to an Alternative Payment Arrangement (APA) with the Department of Working Pensions, that allows the rent element of their benefit to be paid directly to us. This can often be done from the first payment onwards of Universal Credit.

- 8.8.1 Where a Universal Credit claimant gets the rent element paid directly to them and then fails to pay their rent to us, an application to have Direct Payments made to us should be made as soon as possible. This is generally after 2 payments have been missed. If there is an arrear on a Universal Credit recipients' account, we can ask for 3rd party deductions (additional payments) to be made directly to us to recover the debt.
- 8.10 Accurate records must be logged on the Association's Housing Management IT system of all action taken to manage a tenant's rent account. The Rent Management procedure supports staff in the management of rent accounts by providing an escalation process that will be used to manage accruing arrears.
- 8.11 Joint tenants should be made aware from the outset, they have joint responsibility for rent and rent arrears payments. They should also be clear that we will recover from either tenant if one is not complying with the payment arrangement.

9 PAYMENT OPTIONS

- 9.1 We expect rent payments to be made on or before the 1st of each month and monthly in advance, which is specified in the Tenancy Agreement that tenants have with us, however individual arrangements will be considered with tenants depending on their individual financial situation. Tenants will be advised in relation to their initial and future payments when signing the Tenancy Agreement for their home. The use of Direct Debits will be encouraged where a tenant has a bank account. It is expected that these payments leave accounts and be credited to the rent account within 3 working days.
- 9.2 If payments are not made by the end of the month, then this should be considered as an arrear unless it is a technical arrear.
- 9.3 Housing Management Staff will endeavor to make a payment arrangement which is as flexible as possible for the tenant to avoid arrears accruing - e.g., a tenant who is paid weekly should be allowed to make weekly rent payments if this is more convenient.

10 TECHNICAL ARREARS

- 10.1 It is recognised that not all arrears in a tenant's rent account are "actual arrears". There is a clear distinction between "Technical" and "Non-Technical" arrears which is detailed in the Annual Return on the Charter guidance. In general, technical arrears are unpaid rent from Housing Benefit or Universal Credit which has either still to be processed or due in a future payment cycle and therefore it cannot be considered an 'actual arrear'.
- 10.2 When calculating arrears at the end of each month, Housing staff have to consider the technical arrear, which will be deducted from the total arrears

thus give a true arrears figure (this is regarded as the actual or true arrear).

- 10.3 Housing Benefit is paid every 4 weeks towards a rent account. The Association charge rent monthly. Housing Benefit will over the course of the year pay a 13th payment that will make up this shortfall, however due to the payment cycle, the 13th payment is usually received after the last day of the month so a technical arrear calculation must be carried out to obtain the true arrear.
- 10.4 Universal Credit payments which are made direct to the landlord i.e. Alternative Payment Arrangements, managed payments and any Direct Housing Payments for UC, are paid monthly, however due to the payment cycle, the last payment is usually received after the last day of the month, therefore a technical arrear calculation must be carried out to obtain the true arrear.
- 10.5 The calculation for technical arrears for both Housing Benefit and Universal Credit is as follows: from the first day after benefit is paid until the last day of the month (inclusive), multiplied by the daily benefit rate. e.g. Benefit paid in Sept up until 16th – count days from next day to end of month i.e. 17th – 30th (inclusive) = 14 days and multiply this by the daily benefit rate.

11 CO-OPERATION WITH OTHER AGENCIES

- 11.1 We will co-operate with external agencies that may assist the tenant in managing their financial circumstances and reducing their debts, particularly their rent arrears. Mandates / consent forms where applicable will be completed and signed to ensure compliance with GDPR. Staff will look to access a range of grants where appropriate to support tenants in arrears.
- 11.2 Our Housing Management staff utilise online portals to verify tenants information with Glasgow City Council and the Department of Work and Pensions which expedites the time taken to process benefit claims.
- 11.3 Housing Officers will monitor Housing Benefit / Universal Credit monthly payments and identify any slippage in timing of payments or any operational problems which may affect the payments. Where issues arise in relation to this, the Housing Managers should be notified to keep them abreast of any developing situations.

12 LEGAL ACTION

- 12.1 Our Housing Management Team will adhere to this Policy framework and the internal procedure to control, minimise and recover rent arrears. However, where the tenant either fails to co-operate in reducing the arrears or continuously breaks a repayment arrangement, the Association will consider taking legal action, i.e. serving a Notice of Proceedings (NOP) or

court action.

- 12.2 Legal action is not a course which will be embarked upon lightly, and there are sufficient areas in the procedure where the tenant can recover the situation. Should the tenant make a suitable repayment arrangement, even once the case has been booked at court, we will consider all options. This may include the Association requesting the case be dismissed if suitable payments have been made to the arrears before the court case. In all circumstances where the Association has instructed court action and accrued legal costs, these will be rechargeable to the tenant.
- 12.2.1 Housing Managers have delegated responsibility to authorise all NOP's and cases going to court for the appropriate action. The Director of Housing and Communities has the authority to book cases to court and the Management Committee will only become involved in cases once they have reached the final stage i.e. award of decree. The Housing Officer will prepare all related paperwork in connection with serving a NOP or send the relevant paperwork to the Associations solicitor to commence court action.
- 12.3 The Association's procedure on Rent Management will be followed, but where this fails to address an individual arrear accruing, the legal action process should be initiated once authorised by the appropriate Housing Manager.
- 12.4 In the event of a tenant failing to co-operate with staff and/or not adhering to an arrangement, the Pre-Action Requirement process should be adhered to which is fully explained in the procedure, thereafter a Notice of Proceedings should be issued in accordance with section 14(2) of the Housing (Scotland) Act 2001 which states:
- The landlord under a Scottish Secure Tenancy may raise proceedings by way of summary cause for recovery of possession of the property.
 - Such proceedings may not be raised unless:
 - (a) the landlord has served on the tenant and any qualifying occupier a notice complying with subsection (4),
 - (b) the proceedings are raised on or after the date specified in the notice, and
 - (c) the notice is in force at the time when the proceedings are raised.
- 12.5 Where there are joint tenants, a landlord should serve an individual notice on all of the joint tenants.
- 12.6 Subsection 14(3) requires that before serving the NOP, the landlord must make all reasonable enquiries to establish whether there are any qualifying occupiers of the house and, if so, their identities. Such reasonable enquiries would generally be by letter to the tenant and/or visits to the

tenant's home. Landlords should, in any event, make sure that they have an audit trail, which clearly establishes attempts made to identify and notify any qualifying occupiers. Housing Officers will check details of last Housing Benefit / Universal Credit applications and other tenancy information.

- 12.7 Failure by the tenant to respond to the NOP, or to make a satisfactory agreement towards the arrears will result in the case being presented to the Director of Housing and Communities to assess whether the case should be booked to court. Once approved staff will liaise with our Solicitor's to instruct the case to be booked to court. Effective liaison with the Association's legal representative is required, as the reasonableness of the Association's actions will require to be justified before a Sheriff will grant any order to evict (if appropriate). If the tenant has made no contact by this stage or failed to make a satisfactory agreement, the Association will seek a conjoined action for re-possession of the property and recovery of the debt plus legal expenses.

12.8 Decree / Sist / Continuation

If the tenant appears at court and makes an offer to pay while we continue to pursue eviction, the case will usually progress to a proof hearing where both parties may present evidence to support their position. If a suitable payment arrangement is agreed and maintained, and the arrears are cleared in full, the case can be closed with legal fees added to the debt. If we believe the level of arrears is too high to clear in a suitable timescale; a reasonable arrangement is not offered; or an agreed arrangement is broken, the Association's solicitor will return to court and ask for a decree for repossession of the property and recovery of the debt plus expenses. The tenant will be kept informed at every stage. Eviction is the last resort and every other option will be explored to avoid this.

- 12.9 If a decree is awarded then the tenant will be expected to clear the total outstanding arrears, pay 1 months' rent in advance and any appropriate court expenses to prevent the decree from being enforced. At no time will an eviction decree be enforced without the prior consent of the Management Committee.
- 12.10 Following the award of a Decree, the Director of Housing and Communities will present a report for the Management Committee to enable a decision to be taken with regard to the eviction of the tenant. Any arrangement offered to clear the arrears in full or the majority of the money owed, should be detailed for consideration by the Management Committee. If it is the latter, it must be accompanied with an agreement to clear the remaining arrears and court expenses within no more than five months. This allows the Association time to enforce the Decree if the arrangement is broken (each case will of course be considered individually).
- 12.11 If a Decree is enforced, the Association will liaise with Glasgow City Council's Homeless Casework Team to ensure any transitional preparations can be made to assist with the evicted households' next step

towards obtaining emergency accommodation.

13 WELFARE REFORM

- 13.1 During the last two years, for working age claimants, the Department of Working Pensions have ramped up their migration programme, moving claimants from legacy benefits onto Universal Credit. The Welfare Rights staff provide tenants with support to make their claim, check their award is correct, and provide ongoing support to vulnerable households.
- 13.2 Bedroom Tax (spare bedroom subsidy) continues to be mitigated in Scotland by Discretionary Housing Payments (DHP). On receipt of the tenants' Housing Benefit or Universal Credit award, tenants or staff can submit claims to the Department of Working Pensions for the shortfall. DHP can also help tenants affected by the benefit cap; our Welfare Rights & Money Advice team can assist in making these applications.
- 13.3 The Scottish Government continues to look at methods to minimise the impacts of Welfare Reform and have devolved powers which can be used with regards to Universal Credit. Legislation has allowed direct payments to be an option available to recipients to have the rent element of their Universal Credit paid directly to Landlords. They have also provided a twice monthly payment option to allow recipients to manage their finances.
- 13.4 The Welfare Rights & Money Advice Team provide advice and assistance with all benefits, grants and debt management options. Money Advice will explore all viable options including repaying rent arrears with The Debt Payment Plan under the Debt Arrangement Scheme Scotland at no cost to the tenant. Tenants can receive advice on how they will be affected by current and future welfare reforms.

14 SEQUESTRATION

- 14.1 Where we receive official notification that a tenant has been sequestered, any arrears pre-dating the order will be written off in accordance with current legislation. We will not be able to pursue arrears accrued prior to this date; although arrears accrued after the sequestration can legitimately be pursued (refer to Appendix 1). While arrears accrued prior to sequestration cannot be pursued, we may, depending on the level of unpaid rent, pursue decree for eviction based on a breach of tenancy conditions – namely, the requirement to pay rent. The Association will always take advice from our legal representatives.
- 14.2 Once a debtor is sequestered or entered a Protected Trust Deed, the Association will be entitled to lodge a claim against the Sequestered/Trust Deeds Estate of the Debtor, and the Trustee will consider the claim along with all other Creditors.
- 14.3 The Association will write-off sequestered arrears as at the date of sequestration once confirmation from the Accountant in Bankruptcy (AIB) is received. The Management Committee will be notified of this transaction

but no formal approval is required as this is legislative.

15 HOUSING ALLOCATIONS AND RENT ARREARS

- 15.1 If a housing applicant has any outstanding rent arrears or other tenancy-related debts (such as rechargeable repairs), we will apply the conditions set out in housing legislation. This means that for arrears/debts greater than one month's rent, we will 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.
- 15.2 These conditions apply to all external applicants who have previously had a tenancy with us (including Section 5 homeless referrals), and to current tenants seeking a housing transfer.
- 15.3 We 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.
- 15.4 We may exercise flexibility in applying the conditions described at 15.1 if urgent rehousing is needed due to exceptional circumstances. The Director of Housing and Communities has authority to apply discretion here.

16 FORMER TENANT ARREARS & WRITE OFFS

- 16.1 Former tenant arrears will be pursued using the same principles as current tenant arrears. Where appropriate payment arrangements will be agreed with former tenants to clear the balance. Tenants ending their tenancy will be reminded of their payment responsibilities and encouraged to provide a forwarding address.
- 16.2 Where initial action to recover former tenant arrears has proved unsuccessful, the Association will work with a tracing agent to locate the former tenant at their new address and pursue the debt thereafter. Debts of less than £250 will generally be written off once internal procedures have been exhausted.
- 16.3 Arrears deemed to be irrecoverable by our solicitor will be written off without further action. Writing off debts does not negate the former tenant's responsibilities for the debt and should their whereabouts be known in future or they make an application for rehousing with us, they will be pursued for this debt (within legislative guidelines).
- 16.3.1 The Director of Housing and Communities will prepare a write off report twice per year which will seek approval of write offs by the Management

Committee or the appropriate Sub Committee as outlined as set out in the Scheme of Delegated Authority.

17 RENT ACCOUNTS IN CREDIT

- 17.1 Housing Officers will identify tenants with a credit balance in their rent account, both current and former. The Housing Officer will investigate to ascertain if the tenant owes any monies to the Association e.g., re-chargeable repairs, legal expenses etc.
- 17.2 All internal debts must be cleared in full prior to any credits being refunded back to the tenant. The Rent Management procedure explains this in more detail.

18 CONFIDENTIALITY

- 18.1 The Association stresses that the tenant's privacy must be safeguarded and the Association has various legal responsibilities which must be adhered to in this respect (GDPR).
- 18.2 All information regarding arrears is to remain confidential to the staff and tenant unless the tenant installs a 3rd party to negotiate with the Association on their behalf. A signed mandate must be provided before staff will enter into discussions regarding an individual case.
- 18.3 Reporting of arrears cases to the Management Committee will be by number code only. No tenant's name or address will be revealed at any time.

19 MANAGEMENT COMMITTEE MEMBERS IN ARREARS

- 19.1 Anonymity will be preserved at all times from Committee Members in terms of considering individual cases. As Committee Members may also be tenants of the Association, those tenants should not accrue arrears. The Director of Housing and Communities will monitor all Management Committee Members' (tenants) rent accounts quarterly. An informal discussion will be undertaken with the Committee member with regards to arrears in the first instance.
- 19.2 SHA will apply our arrears procedures as normal for any Management Committee members who are tenants and who have rent arrears. However, in accordance with SHA's Rules, a Committee member will cease to be a member if the Association begins legal proceedings to recover their tenancy. Court action commences when court papers are served, not when a NOP is issued.
- 19.3 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) which states "*a breach of the Association's Rules, standing orders or other policy*

requirements”.

20 PERFORMANCE MONITORING AND THE ROLE OF THE MANAGEMENT COMMITTEE

- 20.1 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].
- 20.2 Every Quarter the Operations Sub-Committee will be updated on the Key Performance Indicators for the Association which will contain the Gross Rent Arrears figure as a %age.
- 20.3 The Director of Housing and Communities has delegated authority to pursue recovery action to the final stages, the Management Committee will only become involved with individual cases once Decree has been granted.
- 20.4 The eviction report will be presented to the Operational Sub-Committee or the main Management Committee (whichever is sooner) detailing the payment history, summary of the case, with a recommendation from the Director of Housing and Communities as to the proposed action to be taken.
- 20.5 The Director of Housing and Communities will provide an update on the outcome of any evictions at a future Committee meeting.

21 COMPLAINTS PROCEDURE

- 21.1 Any tenant who feels aggrieved by their treatment under this Policy can address this via the Complaints Handling Procedure, available on our website. Tenants also have a right to complain to the Public Services Ombudsman.

22 LINKS WITH OTHER POLICIES

- 22.1 Our Rent Management Policy is supported by and links to a number of other Policies;
- Allocations Policy
 - SHA Financial Regulations
 - Rent Setting Policy
 - Privacy Policy
 - Equality and Diversity and Inclusion Policy
 - Tenancy Sustainment Policy

22.2 We will review this Policy in three years, however we will review sooner if there are significant legislative changes which have a material impact on the policy.

APPENDIX 1

Sequestration (Trust Deeds) – GENERAL GUIDANCE ONLY

The following information is to give a general understanding of Sequestration with particular reference to Trust Deeds as this would be the more likely solution for someone with financial debts and the means to make some form of contribution to the Trustee.

A Trust Deed is generally viewed as a suitable alternative to Sequestration it is a voluntary but legally binding agreement. There is no minimum or maximum debt.

Sequestration is the legal term for personal bankruptcy. It is a legal process which begins when the debtor is formally declared bankrupt by the Court. You must owe at least £1500.00 and one or more of your creditors must have taken legal action to enforce or demand the repayment of a debt.

In both cases (Trust Deed & Sequestration) a Trustee is appointed to act in the interests of the creditors.

Trust Deeds – A trust deed is signed by an individual who is unable to pay his/her debts. **The debtor is told to stop payment to debts but must pay ongoing financial expenditure such as rent.** In order to protect the trust deed the appointed Trustee publishes a notice in The Gazette and writes to all the creditors enclosing a copy of the notice and of the trust deed advising that the trust deed is to become protected. The Creditors have 5 weeks from the date of the notice to object, so long as more than one half in number of creditors whose claims amount to more than one third of the total debt do not object the trust deed will become protected. **The debt can no longer be pursued.**

If the majority of creditors do object and the individual owes more than £1500.00 then the trust deed will not become protected, it is likely a petition for Sequestration will then be lodged. If granted apparently in the majority of cases there are **no pay-outs for creditors.**

Should the Association be one of the creditors and decide to object to the granting of a Trust Deed, you can continue to pursue the debt and legal action (**Always check with our solicitor**) within the 5 week period. Once protected you cannot pursue the debt, however you can pursue legal action for repossession.

The other point worth remembering is that if a Trust Deed is signed by an individual, it is a contribution-based agreement therefore at the end of the period (normally 4 years) there may be a pay out to creditors once the Trustee has deducted his expenses.