
Income collection policy

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1. INTRODUCTION

This policy sets out One Housing's approach to the collection of rent and service charges from general needs tenants; market rent tenants and homeowners, including former tenants. This policy does not cover income collection for housing care and support properties, or commercial properties.

2. AIMS & OBJECTIVES

- To ensure that tenants and homeowners pay their rent, service charge(s) and any other charges in accordance with their tenancy agreement or lease;
- To maximise income collection;
- To have a firm but fair approach to collecting arrears;
- To ensure early intervention and to contact tenants and homeowners quickly should they fall into arrears;
- To assist residents who fall into arrears to access the most appropriate support and advice;
- To collaborate with agencies and organisations representing our tenants;
- To consider legal action against tenants and homeowners who fail to take reasonable steps to clear their arrears;
- To ensure that rent is paid in advance.

3. POLICY STATEMENT

One Housing is committed to ensuring a minimum level of arrears through the development of a strong payment culture and taking prompt action to prevent arrears accumulating. Whilst we will assist residents as much as possible to sustain their tenancy or lease, it is ultimately the responsibility of the resident to pay amounts due on time in accordance with their tenancy agreement or lease.

Where a lease or tenancy agreement permits for interest to be charged to a resident, this may be charged at the discretion of One Housing.

A resident cannot remain or be re-elected as a One Housing group board or forum member if they are involved in any legal proceedings concerning their tenancy.

4. GENERAL NEEDS INCOME COLLECTION

General needs tenants are One Housing tenants paying a social or affordable rent. General needs tenants will hold secure tenancies, assured tenancies, starter tenancies, fixed term tenancies and contractual tenancies. Residents that occupy a property on a use and occupation basis will be considered a licensee and will be liable for a licence fee or charge as per the licence.

One Housing will follow the Pre-Action Protocol for Rent Arrears, when appropriate, in managing its general needs income collection.

4.1 Payment options

One Housing's preferred payment option for general needs tenants is direct debit and all tenants will be encouraged to pay by this method. Other payment methods such as standing order, debit/credit card or payment card will be considered if it is not possible for the tenant to pay the charges due by direct debit.

Rent must be paid in advance as per the tenancy agreement.

4.2 Monitoring accounts and collection of arrears

One Housing will monitor accounts regularly, make contact with those tenants whose accounts have fallen into arrears and take the appropriate action.

During the arrears collection process One Housing will give due regard to the tenant's full circumstances to enable us to address each case appropriately. We will use various methods available to make contact with our tenants including email, telephone calls, letters, visits and texts. Consideration will be given where One Housing is aware that English is not the tenant's first language.

4.3 Arrears recovery action

Tenants are deemed to be in arrears when they have missed one weekly or monthly payment, depending on the frequency of payments. Tenants will be encouraged to settle the amount owed in full immediately. However, where this is not possible, we will negotiate a repayment plan to gradually reduce the arrears owed in order to avoid the need for legal action. This will usually be by securing a lump payment to reduce the amount owed and agreeing a weekly/monthly amount to be paid on top of the charges due. When calculating the agreement amount we will take into account the circumstances of the household including their income, expenditure and other outstanding debts. We will also take into account the amount of time remaining on a tenancy if the tenant holds a fixed term agreement.

We will offer the resident the opportunity to ensure that they are claiming all the welfare benefits to which they are entitled, and provide them with money management support and debt advice signposting.

4.4 Legal action to collect arrears

If a tenant fails to clear the arrears owed or come to a suitable repayment agreement then possession action will be taken. If the arrears owed are more than £300 or have been outstanding for more than 4 weeks, then the appropriate Notice of Seeking Possession ('NOSP') may be served.

4.5 Discretionary and mandatory grounds

Discretionary grounds for possession will usually be used. However in certain cases for tenants holding assured or fixed term tenancies, the use of the mandatory Ground 8 of the 1988 Housing Act will be considered where in excess of eight weeks' or two months' rent is owed.

If a tenant has serious rent arrears at the end of their fixed term or during their starter tenancy, One Housing may terminate the tenancy by serving a Section 21 notice and will not re-issue a new tenancy.

4.6 Possession proceedings

For cases where all attempts to arrange a suitable repayment agreement with the tenant have not been successful, then an application for possession of the property will be made. Any possession proceedings will only be carried out after careful consideration of the circumstances of an individual case.

4.7 Evictions

For cases where an outright possession order has been granted, or the tenant has breached the terms of a suspended possession order, an internal eviction request report will be completed. Any applications for eviction will be reviewed by the customer accounts manager and authorised by the assistant director of income and legal operations and director of housing services. For the West region, this will be signed off by the head of regional housing operations and director of housing services.

4.8 Welfare reform issues

The Government is implementing a number of changes to the way welfare benefits are calculated and paid. We will therefore consider how a household has been affected by these changes when taking arrears recovery action. Affected residents will be expected to engage with our employment and training service to obtain assistance with budgeting and financial skills, or training on developing the skills required for them to obtain employment. Residents are also expected to consider downsizing if affected by the under-occupancy penalty (bedroom tax), or to consider moving to cheaper accommodation if it is available and they are affected by the benefit cap.

4.9 Universal credit

Where tenants have been moved onto Universal Credit, they are expected to make their full rent payment to us every month. If a tenant in receipt of Universal Credit fails to pay their rent, One Housing will make an application for an alternative payment arrangement (direct payment to the landlord) in line with the DWP's guidance.

4.10 Welfare benefit and debt advice

One Housing offers an in-house welfare benefit maximisation service and tenants who are experiencing financial difficulties will be encouraged to utilise this service. We will also advise tenants that they are able to seek independent advice from agencies such as the Citizens Advice Bureau or the Island Advice Centre.

4.11 Accounts in credit

Residents will be advised if their rent account is in credit via their quarterly rent statement.

4.12 Transfers, mobility schemes, mutual exchange

One Housing will not consider a transfer or move under a mobility scheme or mutual exchange for residents in arrears unless the household is under-occupying their property and are affected by the bedroom tax. However, in exceptional cases where there is an emergency and a need to be re-housed, a transfer will be considered at the discretion of both the allocations manager and a head of regional housing operations. One Housing may refuse an application or a mutual exchange or impose a condition that the arrears are paid prior to the exchange in line with the relevant legislation and our Tenancy Policy.

5. MARKET RENT INCOME COLLECTION

One Housing's market rent tenants are those that pay a market rent for their homes (as opposed to social or affordable rent). For the purposes of this policy, market rent tenants also include those that pay an intermediate market rent. Our market rent tenants hold assured shorthold tenancies that are offered on a 12 month basis with a 6 month break clause and which may be renewed.

One Housing also manages some leasehold and shared ownership properties that have been let out by their owners. These are known as Citystyle Lets properties.

Income from tenants living in One Housing's market rented and Citystyle Lets accommodation is collected by direct debit on the first of each month.

5.1 Market rent arrears

Where a tenant is in arrears, One Housing will make initial contact by phone to arrange to take full payment of the arrears. If this is not possible a review of the debt and associated tenancy will take place. The portfolio and lettings advisor will make contact with the resident to arrange a payment plan. Any offer of a payment plan will be discretionary and can be cancelled at any time, with the full balance becoming due. This will normally be agreed by the relevant advisor, but if the payment plan is for a duration longer than two months, this must be approved and signed off by the lettings manager.

If One Housing has been engaged as managing agent (Citystyle Lets) to provide full management services or let and rent collection services, the lettings team will follow the same process as described above. If One Housing have only been engaged to provide letting services, no rent/arrears collection will be carried out in respect of the particular premises.

If a payment plan cannot be arranged, or if the tenant breaches their payment plan, we will seek possession by serving a Section 21 notice, using the accelerated possession route. A Section 21 notice will only be served after 4 months into the tenancy.

6. HOMEOWNER INCOME COLLECTION

For the purposes of this policy, the term homeowner covers:

- Leaseholder
- Shared owners (residents who have purchased a percentage share of the lease of their property)
- Freeholders who have a service charge liability to One Housing

6.1 Homeowners' circumstances

Homeowners may have particular circumstances which have contributed to their arrears or impact on their ability to repay the debt. We will use knowledge of such circumstances to inform the arrears repayment plan that we will seek, or legal/ enforcement actions that we take to recover the monies owed.

6.2 Monitoring of accounts and collection of arrears

One Housing expects all homeowners to pay their rent where applicable and other charges in accordance with their lease. We will regularly monitor homeowners' accounts, and contact those homeowners whose accounts have fallen into arrears.

Homeowners have no general right to withhold service charge payments and homeowners who withhold service charges will be deemed to be in arrears and subject to this policy.

In the case of resident homeowners we will normally expect any arrears to be cleared in a maximum of 6 monthly instalments. Payment agreements with more than 6 monthly instalments will usually only be entered into if a substantial lump sum is paid as a first instalment. Payment agreements that are up to 6 months in duration will be signed off by the leasehold accounts advisors. Payment agreements between 6 and 9 months will be signed off by the property sales and income manager. Any agreements for a longer period must be signed off by an assistant director.

For homeowners who have sublet their homes, we will seek full repayment of any debt in one payment as they are regarded as commercial landlords. Where a homeowner has sublet his/her property it must be done strictly in compliance with their lease.

Where One Housing has failed to reach a repayment agreement with a homeowner who has a mortgage, we will approach the homeowner's mortgage lender to recover the sums owed. One Housing has a legal obligation to do so due to the mortgage lender's interest in the property. If the mortgage lender agrees to repay the debt outstanding, the amount repaid is usually added to the homeowner's mortgage.

6.3 Legal action to collect arrears

If One Housing is unable to recover the debt from the homeowner or its mortgage lender then One Housing will commence legal action. Any legal action that may result in One Housing recovering possession of a homeowner's home will be:

- Reviewed by the property sales and income manager
- Signed off by a solicitor from the Legal team
- Authorised by an assistant director

6.4 Leasehold arrears recovery

If a leaseholder has arrears of more than £350, or if the arrears have been outstanding for more than 3 years, a County Court claim will be issued against the leaseholder. If the judgement is obtained in the County Court it can be enforced in the following ways:

- Request payment from the leaseholder's lender.
- Forfeiture – where One Housing recovers possession of a leaseholder's home.

- Order for Sale – where, after being awarded a charging order, One Housing obtains a court order for the homeowner to sell their home.

The enforcement options below will only be considered for elderly homeowners or homeowners with exceptional circumstances:

- Charging order – where One Housing secures the debt against the homeowner’s home, allowing One Housing to recover the money when the property is sold.
- Voluntary charge – where a homeowner agrees to secure money they owe One Housing against their home.

The above is not an exhaustive list of enforcement actions. One Housing will determine which legal or enforcement action to take on a case by case basis, taking into account the circumstances of each case. One Housing will notify leaseholders in advance of any legal action or enforcement action that it intends to take. Any legal costs incurred by One Housing in recovering arrears will be added to the debt.

6.5 Shared Ownership arrears recovery

In the case of Shared Ownership arrears, should the homeowner fail to enter into a repayment agreement with One Housing or fail to comply with a repayment agreement, a 28 days’ notice letter will be sent to the resident to inform them that if no payment or agreement is made, One Housing will serve a Notice of Seeking Possession (NOSP). Where the resident has a lender, the 28 days’ notice letter will also be sent to the lender. Discretionary grounds for possession will generally be used. However, the use of the mandatory Ground 8 of the 1988 Housing Act will be considered where in excess of eight weeks’ or two months’ rent is owed.

6.6 Legal decisions by court / First-tier Tribunal

Where a legal determination has been made by a Court or Tribunal in relation to service charges, the service charges will become immediately due and payable in line with the Court order or Tribunal decision and any instalment agreements will be at the discretion of One Housing.

6.7 Freeholder arrears recovery

Freehold arrears cases will be determined on a case by case basis. One Housing will notify freeholders in advance of any legal action that it intends to take.

6.8 Advice from independent agencies

One Housing will advise homeowners who are experiencing financial difficulties to seek debt advice from independent agencies such as the Citizens Advice Bureau.

7. FORMER ACCOUNT ARREARS

7.1 Definition

Former account arrears arise in the following circumstances:

- The debtor no longer rents property from One housing, or its agent Citystyle Living (including deceased tenants); or
- The debtor has moved from a One Housing property to another, leaving arrears on the property they have moved from. The arrears remain in a separate account and are not transferred to the current account for the new property; or
- Dilapidation claims recharged to the former account.

7.2 Reconciling the balance

One Housing will review the balances of all terminated accounts to establish whether there are:

- a) Housing benefit payments overpayments which must be repaid
- b) Housing benefit payments outstanding
- c) Other payments outstanding (including dilapidation charges)
- d) Deposit held in any other account
- e) From the review of an account balance, One Housing will determine whether there are arrears or a prepayment on the account and take prompt action in line with this policy
- f) Any errors, incorrect charges or misposted payments
- g) Any associated accounts.

One Housing will work to collect former account arrears in line with legislation. Where any debt is statute barred it will be written off, without any further action taken. In some cases, the debt may be passed to a debt collection agency.

8. FORMER ACCOUNT CREDITS

One Housing may “write on” any credit on a former account if (a) **and** (b) below has been satisfied:

- a) There is a credit balance (pre-payment on the account); and
- b) The credit balance is:
 - a. smaller than £100; or
 - b. £100 or more and there is no forwarding address; or
 - c. £100 or more and if there is a forwarding address and there is no response from a letter advising of the credit on the account; or
 - d. older than 6 years that has not been “written on” previously; and
 - e. Subject to confirmation received that there is no housing benefits overpayments or One Housing has written to the relevant authority regarding housing benefit overpayments twice and no response has been received 21 days after the last letter. A record must be kept of all correspondence in relation to housing benefits overpayments.

Any former tenant/resident will be entitled to a repayment of a credit on their former account to them within 6 years of it being “written on”.

9. LEGAL COSTS

We will seek to recover any costs incurred, including legal expenses from the tenant/homeowner.

10. LEGISLATION AND REGULATION

Government legislation has an impact on how One Housing can implement its Income Collection policy. Listed below are the key Acts that have been acknowledged.

- Housing Act 1985
- Housing Act 1988
- Housing Act 2004
- Localism Act 2011
- Deregulation Act 2015
- Landlord and Tenant Act 1985
- The Human Rights Act 1998
- The Equality Act 2010
- Protection from Eviction Act 1977
- County Courts Act 1984
- HCA Regulatory Framework 2012
- Pre-Action Protocol for Possession Claims by Social Landlords
- Civil Procedure Rules that came into force, by way of statutory instrument 2012 number 505 (L.2), in October 2012

The above documents are available on a website delivered by the National Archives: www.legislation.gov.uk

11. CONFIDENTIALITY

Under the Data Protection Act 1998 and the Human Rights Act 1998, all personal and sensitive organisational information, however received, is treated as confidential. This includes:

- anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff or committee member
- sensitive organisational information.

Staff will ensure that they only involve other agencies and share information with the consent of the resident concerned, unless:

- One Housing is required to by law
- the information is necessary for the protection of children

12. EQUALITY & DIVERSITY

One Housing recognises the needs of a diverse population and always acts within the scope of its own **Equality and Diversity Policy**, the Human Rights Act 1998, and Equalities Act 2010. One Housing works closely with its partners to ensure it has a clear understanding of its resident community with clear regularly updated service user profiles. One Housing will record, analyse and monitor information on ethnicity, vulnerability and disability.

13. MONITORING & EVALUATION

One Housing will record data on income collection through internal key performance indicators.

14. HEALTH & SAFETY

This policy will be carried out in compliance with the relevant statutory health and safety requirements and regulations.

Appendix 1 – Definitions

A Notice to Quit: a notice served by either party which brings the agreement to an end.

A possession order obtained under one of the grounds listed in Schedule 2 of Housing Act 1985: a possession order based on the service of a Section 83 Notice also known as a Notice of Seeking Possession ('NOSP')

County Court: County Courts deal with civil (non-criminal) matters particularly claims relating to debt.

First-tier Tribunal: The First-tier Tribunal - Property Chamber (Residential Property) is the forum for dealing with matters previously brought before the (former) Leasehold Valuation Tribunal (LVT). The tribunal aims to provide an accessible and affordable avenue for resolving residential leasehold disputes between leaseholders and their landlords.

Ground 8 of the 1988 Housing Act: a mandatory ground for possession on the basis of rent arrears of at least eight weeks or two months on the date that proceedings began and at the date of the hearing. A possession order will be based upon the valid service of a Section 8 Notice also known as a Notice of Seeking Possession ('NOSP')

Housing mobility schemes: enable local authority and housing association tenants to relocate from their current area to other parts of the country.

Licence: an agreement to occupy the property on a use and occupation basis only. This type of agreement is not a tenancy.

Licensee: is a person(s) who occupies a One Housing property on a use and occupation basis only.

Mandatory Notices and Possession: a notice which leaves a judge with little or no discretion when it comes to awarding a possession order.

Misposted payments: incorrect payments; a 'wrongly parted with' payment. (see 7.2 p. 9)

Mutual Exchange: is where social housing tenants (council/housing association or other registered providers) can swap properties with other social housing tenants.

Notice of Seeking Possession ('NOSP'): the first stage of legal action which allows a landlord to apply for the possession of a tenant's home.

Outright possession order: means the tenant must leave the property by the date given in the order.

A suspended or postponed possession order means that the tenant can remain at the property upon fulfilment of certain conditions. These conditions are explained on the court order.

Pre-Action Protocol for Possession Claims by Social Landlords: a civil protocol published by the Ministry of Justice that applies to residential possession claims by social landlords. Before starting court action to evict for rent arrears, the landlord must follow the steps set out in the protocol. The protocol does not apply to claims in respect of long leases or to claims for possession where there is no security of tenure. This protocol does not apply to the use of S21 notices. The full text of the protocol can be found on the Ministry of Justice website.

Section 21 Notice/ Form 6A: the form a landlord must serve to start the process to end an assured shorthold tenancy. A possession order obtained under the provisions of Section 21 of the Housing Act 1988 is also known as a Notice Requiring Possession.

Statute Barred: If a debt is statute barred this means it is no longer legally enforceable owing to a prescribed period of time having passed. These limits are set out in the Limitation Act 1980.

Tenancy agreement: is a legally binding contract between a tenant and One Housing. It sets out the conditions upon which the property is let and includes rights and responsibilities of both the tenant and One Housing. Where we have referred to tenancy and/or tenancy agreement within this document this also includes licence agreements for the purposes of the policy unless stated otherwise.

Tenant: is a person(s) who rents and occupies a property rented from One Housing.

Universal credit: a means-tested benefit for people of working-age who are on a low income. It replaces six existing means-tested benefits. Universal Credit is being introduced gradually. Whether you can claim depends on where you live and your personal circumstances.