

# Kingston Churches Housing Association

## *The Caring Professionals*

### RENT ARREARS POLICY AND PROCEDURE

#### **A POLICY**

1. It is the policy of KCHA to contain rent arrears at a low level in order to:
  - Prevent tenants losing their home through eviction
  - Help tenants maximise their income and prevent them getting into financial difficulty
  - Maximise the Association's rental income
2. The Association's Housing Management will recommend, and the Board of Management agree, annual rent arrears targets.
3. A range of convenient and flexible rent payment methods will be provided to maximise the opportunities for tenants to pay their rent and to suit individual needs.
4. Clear and understandable information will be provided to tenants about:
  - The amount of rent payable
  - Methods of rent payment
  - The current position on their rent account
  - KCHA's policy and procedures on rent arrears
  - Advice on what to do if they are having difficulties paying the rent
  - Advice on housing benefit and other welfare benefits
5. Action to deal with rent arrears will be taken at the earliest possible stage. The Association will take a sympathetic but firm and consistent approach and ensure that any such action is taken in line with the agreed pre-action protocol for possession claims based on rent arrears.

6. Where initial action to contain and reduce a debt is not successful, court proceedings will be instigated. Care must be taken to follow all up to date protocol before proceeding to court. As a last resort, if no other solution is possible, eviction will be requested.

## **B PROCEDURE**

### **7. Definition**

- 7.1 Rent is due weekly in advance, or as set out in the Tenancy Agreement. A tenant who has not paid rent by the close of business on a Monday (or the following working day if Monday is a public holiday) is technically in arrears.
- 7.2 Tenants should therefore be requested to make arrangements to pay their rent in advance. This is particularly important for tenants who pay monthly, for example, by standing order.

### **8. Information to Tenants**

- 8.1 Quarterly statements will be sent to all tenants showing the current position on their rent account.
- 8.2 Up to date information on current housing and other welfare benefits will be displayed in Central Office reception, and will be made available to tenants as appropriate (for example through regular mailings to tenants).

### **9. Action at the Beginning of a Tenancy**

- 9.1 When a new tenant signs up for his or her tenancy, advice should be given about the payment of rent and benefits available.
- 9.2 A provisional assessment should be made of the tenant's possible housing benefit entitlement (if any). Care should be taken to ensure that the necessary supporting evidence is provided, for example on proof of earnings.
- 9.3 The tenant should be encouraged wherever possible to agree to payment of housing benefit direct to the Association. As benefit is usually paid four weekly in arrears, the tenant should be asked to pay an additional amount, in addition to any shortfall, to bring their account gradually 2 weeks in advance in accordance with the terms of their Tenancy Agreement. It is accepted that because housing benefit is paid four weekly in arrears, there may be two weeks owing at any time before the housing benefit payment is due.

- 9.4 The tenant should be encouraged to deliver his or her application in person and obtain a receipt for it.
- 9.5 The Housing Services Manager (HSM) will review any service level agreement with the housing benefit sections that we deal with to agree service standards, liaison arrangements, and monitoring and review procedures. The Housing Officer (HO) / HSM will liaise regularly with each local authority to make sure the tenants receive a good benefits service.
- 9.6 A visit will be carried out to all new tenants after two months to find out whether the tenant is having any difficulties paying the rent and to deal with other housing management issues. The standard New Tenant Visit Form will be completed, and if there are significant rent arrears the ***Rent Arrears Interview Form will also be completed.***

## **10 Initial Recovery Action**

- 10.1 Early action is essential to ensure that the tenant is aware of any arrears and the importance of keeping his or her account up to date, and to enable him or her to deal with any problem before it escalates beyond easy remedy.
- 10.2 Written records should be kept of any action taken at each stage of the recovery process, including notes of all telephone conversations, interviews and visits. The note facility on QLX will be updated at all stages.
- 10.3 Standard letters are available to be sent to tenants at key 'trigger' points in the arrears process. These may be adapted to suit individual tenants' circumstances.
- 10.4 At **one week arrears** standard letter **AR1** should be sent to the tenant.
- 10.5 If there is no response from the tenant and the account shows **2 weeks arrears** standard letter **AR2** should be sent to the tenant requesting that the arrears be cleared either in full or by making regular agreed instalments.
- 10.6 If there is still no response a visit should be made to the tenant (or arrangements made to interview the tenant in the office). Standard letter **AR3** should be sent to the tenant advising that we are considering issuing Notice of Seeking Possession (NOSP) if they do not respond.

## 11. Visit to Tenant/Office Interview

- 11.1 The purpose of the tenant visit/office interview is to undertake an in-depth discussion of the reason for any arrears, to ensure that the tenant is maximising his or her income, and to negotiate arrangements for repayment of the arrears.
- 11.2 The interview should cover the following points:
- Household composition
  - Total household earnings/income
  - Total outgoings (including other debts etc.)
  - Eligibility for, and take up of, benefits
  - Net disposable income
  - Reasonable and realistic instalment payments to clear arrears in the minimum time possible
- 11.3 If further specialist welfare benefits or debt counselling advice is required the tenant should be referred to outside agencies (in accordance with arrangements agreed with those agencies).
- 11.4 By the end of the visit/interview (or within a short period afterwards if further information needs to be obtained) instalment payments to clear the arrears should be agreed. The agreement details should be confirmed by letter to the tenant and placed on QLX notes.

## 12 Issue of Notice of Seeking Possession

- 12.1 If, despite all efforts, there is still no evidence that the tenant is attempting to reduce the debt, by the time the account is **six weeks in arrears** a Notice of Seeking Possession (NOSP) should be issued with a covering letter (**standard letter AR4**). Each case must be considered on its merit. The HSM or in his or her absence the Chief Executive (CE) are to make the decision.
- 12.2 There are limited circumstances under which it may not be appropriate or advisable to issue a NOSP to issue a NOSP at this level of arrears. Examples are:
- The tenant (or a household member) is elderly, disabled, has a serious health problem or is otherwise vulnerable
  - The tenant is withholding rent because of an alleged disrepair or otherwise counter claiming
  - There is an unresolved marriage or partnership dispute
  - There is an outstanding housing benefit claim confirmed by the Housing Benefit Section in writing

- 12.3 It is important that the NOSP is accurately prepared and properly served.
- 12.4 When preparing the NOSP care must be taken that the correct Housing Act and Grounds are used.

For Secure Tenants the Housing Act 1985 should be used along with Ground 1 of Schedule 2.

For Assured Tenants the Housing Act 1988 should be used along with Grounds 10 (rent arrears) and **11 (breach of tenancy)**. Consideration must be given as to whether it is appropriate to use Ground 8 (8 weeks arrears at service of NOSP) or Ground 11 (persistent arrears) in certain circumstances. It should be noted that Ground 8 grants automatic possession even if there are no arrears at the time of the court hearing and care should therefore be taken before using this Ground. The HSM will make the decision whether to use Grounds 8 or 11.

- 12.5 The NOSP should be served by hand on the tenant and a Record of Service of Notice form completed and placed on file along with two copies of the NOSP.

### **13. Court Action**

- 13.1 After service of NOSP the tenant's rent account must be carefully monitored.
- 13.2 If there is no proposal to clear or reduce the arrears, and by **8 weeks arrears** the Housing Officer will institute possession proceedings, having discussed the case with the HSM. Standard letter **AR5** should be sent to the tenant, and an attempt to visit the tenant must be made, or a request for them to attend the office for interview made.
- 13.3 The Court will give a time and date for the hearing. The HO will issue standard letter **AR6** to the tenant, giving details. The tenant should be encouraged to attend the hearing.
- 13.4 If the tenant has failed to make satisfactory payments, or does not appear at the Court hearing, an outright Possession Order should be sought. If an outright Possession Order is granted standard letter **AR7a** should be sent to the tenant.
- 13.5 Unless there are other considerations, where some reasonable proportion of the arrears has been paid and/or the tenant appears in court, a possession order should be requested suspended on the agreement of the tenant to pay current rent plus an amount towards the arrears. If a

suspended Possession Order is granted standard letter **AR7** should be sent to the tenant.

- 13.6 If possession is granted, costs should be requested, assessed by the Judge or Registrar, which should be added to the arrears. This is usually the cost of making the application and is in the region of £325.00 if the claim is done online, or £355.00 if we have not been able to make the claim on line.

## **14 Eviction**

- 14.1 If the tenant does not comply with the terms of a suspended possession order standard letter **AR8** should be sent to the tenant. This will advise the tenant that the account must be brought back into line with the terms of the possession order.
- 14.2 If the account is not brought back into line with the terms of the Order within a short space of time, a Bailiff's Warrant to enforce the possession order and evict the tenant should be applied for. Standard letter **AR9** should be sent to the tenant.
- 14.3 In the case of an outright Possession Order if the tenant has not vacated the property by the date given a Bailiff's Warrant to enforce the Order should be applied for.
- 14.4 If arrears and costs are paid in full by the tenant before or by the eviction date the eviction should be cancelled.
- 14.5 If the eviction takes place, the HO and/or HSM should attend with the Court Bailiff to execute the Warrant. A carpenter should also be present to change the locks and secure the property, and the presence of police and other welfare representatives (for example, from Social Services or the RSPCA) may be requested if problems are anticipated.
- 14.6 After the eviction has been carried out and the property secured, the evicted tenant may be allowed to return to remove possessions, but control of access must remain with the Association's officers. At no time should the tenant be allowed to return to the property without being accompanied by the HO.

## **15 Former Tenant Balances**

- 15.1 Every reasonable effort should be made to recover former tenant arrears.
- 15.2 Where a forwarding address is known, the former tenant should be contacted and an attempt should be made to recover the debt or

negotiate an agreement to pay by instalments. A Rent Arrears Agreement may be drawn up based on the current arrears model.

- 15.3 Where no forwarding address is given, efforts may be made to trace the tenant via relatives, friends or other agencies. In reality, however, there is usually little prospect of tracing the whereabouts of former tenants who have left behind significant debts.
- 15.4 Where the whereabouts of a former tenant are known, it may be possible to take legal action to obtain a money judgement in the court. Unless the prospects of success are high and the former tenant has the financial means to satisfy a court judgement, however, it would be a waste of further time and money to pursue such a course of action.
- 15.5 A record of each former tenant debt and all recovery action taken should be kept on the former tenant file.
- 15.6 When it has been decided that a former tenant debt is not recoverable, or is beyond economic recovery, it should be referred for write-off.
- 15.7 The Chief Executive may authorise write-off of former tenant debts up to £500, but these should be reported to the next Board meeting. Debts over £500 must be referred to the Board for authorisation for write-off.
- 15.8 The same basic procedure, including authorisation limits, applies to former tenant credit balances.
- 15.9 A register should be kept of all former tenants bad debts, and all applications for housing to the Association should be checked against this register. Consideration will be given to sharing this information with the local authority and other registered social landlords.