

EAST AYRSHIRE COUNCIL
HOUSING COMMITTEE – 1 NOVEMBER 2006
ARREARS CONTROL POLICY

Report by the Executive Director of Neighbourhood Services

1. PURPOSE OF THE REPORT

- 1.1** The report seeks approval for the Arrears Control Policy which essentially codifies the arrangements already in place and consolidates various policy elements which have previously been approved. The policy document recognises emerging issues and seeks to address these.

2. BACKGROUND

- 2.1** The Council's performance in reducing arrears has been impressive over a number of years. This is based on good management information, early contact with tenants in arrears, the provision of information and advice to tenants on how to manage their debt and how to maximise their income, including uptake of Benefit entitlement and taking effective and decisive action where there is no evidence of tenants making a serious attempt to pay their arrears.
- 2.2** The appended policy document (Appendix1) recognises all of these essential elements for the sound management of arrears and also presents options for preventing homelessness where recovery action has been necessary.
- 2.3** Communities Scotland have intimated that they will be inspecting East Ayrshire Council in the course of the current financial year as part of the Single Regulatory Framework (SRF) Inspection Programme. The inspection process looks at policy documents and the service's compliance with the terms of the Policy.

3. EMERGING ISSUES

3.1 Corporate Debt

The policy recognises the issue of multiple debts owed to the Council and the implications on tenants where, arrangements to address one debt can render other debts unmanageable or cause difficulty in meeting ongoing commitments. The overall burden has to be looked at.

3.2 Evictions and Homelessness

Communities Scotland has produced a Thematic study on Evictions which looks at the implications of evictions on households, the overall costs to landlords taking these actions, the ongoing duties of Councils in relation to Homelessness and the Children's Act and, not least, the effect on the tenants and their families. The need to balance these issues with effective action to

tackle housing debt and demonstrate that decisive action will be taken is recognised. However, in exceptional circumstances, there are alternatives to actually carrying out an eviction, e.g. terminating the tenancy but leaving the family in their existing accommodation on a Short SST. The policy will incorporate these options as part of a detailed scrutiny on each individual case where a decree has been granted.

3.3 Independent Advice

The same study recommends that there should be available independent advice on housing related debt. At present, there is the facility for tenants to receive free advice from Citizens Advice Bureau (CAB). Typically, this is an option which tends to be taken up at very late stages in the process, if at all. It would be appropriate to review these arrangements to ensure that the provision of financial and debt management advice is accessible to everyone who requires it. Accordingly, we will contact colleagues in other authorities through the Scottish Housing Best value Network to assess the level and type of provision currently being used and the relative success of the various methods.

4. FINANCIAL IMPLICATIONS

4.1 Studies have indicated that the cost to a local authority landlord of carrying out an eviction and thereafter dealing with the implications of this can be as high as £20K per eviction.

4.2 There are no other financial implications.

5. POLICY/ LEGAL IMPLICATIONS

5.1 The appended document implies a change in policy with regard to evictions, where other options can be explored to prevent homelessness but whereby the debt continues to be pursued. The policy also seeks to take account of other debts to the Council and it is proposed that further work would be undertaken with colleagues in other services within the Council to develop comprehensive and practical arrangements to achieve this without compromising performance in the area of debt recovery.

6. COMMUNITY PLANNING IMPLICATIONS

6.1 The policy seeks to work towards the Community Planning goals of eliminating poverty and promoting sustainable communities.

7. RECOMMENDATIONS

7.1 It is recommended that Committee:

- (i) recommend to Council approval of the Arrears Control Policy; and
- (ii) otherwise note the contents of the report.

William Stafford
Executive Director of
Neighbourhood Services

CMCA/LA
9 October 2006

LIST OF BACKGROUND PAPERS

1. Communities Scotland Thematic Study: Evictions in Practice

Members wishing further information should contact Gerry Darroch, Housing Services Manager on 01563 554873.

Implementation Officer: chris.mcaleavey@east-ayrshire.gov.uk

ARREARS CONTROL POLICY

Current Tenant Arrears

1. AIMS AND OBJECTIVES

The Council's aim is to:

- maximise tenant's income
- take early preventative action to avoid arrears debt escalating out of control
- take effective action to reduce the level of debt owed to the Council

This will help prevent homelessness, contribute to building sustainable communities and assist in eliminating poverty, a main theme of the Community Plan.

2. POLICY METHODS

The effective management of arrears recognizes that prevention is better than cure and, accordingly, the range of actions to deal with arrears is progressive with an emphasis on good communication at all stages. The key action areas are:

- **Information and Advice**
- **Accessibility**
- **Early Intervention**
- **Affordable Arrangements**
- **Recovery Action**
- **Eviction**

3. INFORMATION AND ADVICE

Information and advice is primarily given to prevent arrears from accruing. It is important to ensure that this is provided at the outset of the tenancy and reinforced throughout the tenancy.

If it is necessary to take arrears control action, the nature of the information and advice will change but should take account of the circumstances of the tenant. All information provided by the tenant will be recorded and will be dealt with confidentially.

When a tenant signs a new missive they will be:

- advised of rent charges, frequency and methods of payment

- issued with HB application form and associated documents
- offered help to fill in the HB form and related documents
- advised how to contact HB staff
- given advice on what to do and who to contact if they have difficulty in paying their rent
- advised of the implications of non-payment of rent
- advised that they will receive a visit from their housing officer within 6 weeks of moving into their home, and if appropriate, accompanied by their tenancy support officer, where rent issues can be discussed

All tenants will be:

- provided with a swipe card holding information about their account
- advised of their rent levels on annual basis
- provided with rent statements every six months or more frequently on request
- advised on how to access financial, welfare and budgeting advice from within the Council or from partner agencies.

4. ENSURING ACCESSIBILITY

It is important to ensure that payment methods are as accessible and flexible as possible and take into account modern methods of personal financial budgeting. We will also ensure that tenants can contact the right people to discuss their finances. We will achieve this by:

- providing a choice of methods to pay rent.
- providing facilities to pay rent at local offices
- providing access to staff who can advise on benefits entitlement
- directing clients to sources of independent advice
- making arrangements with the In-Court Advisor if legal action is necessary

5. EARLY INTERVENTION

Early intervention is crucial for the successful management of arrears. All rent accounts will be monitored on a weekly basis and missed payments will be flagged by the system. In order to make contact before debt increases, we will:

- regularly monitor and audit rent accounts
- seek early dialogue with tenants when 2 weekly payments are missed (unless another payment cycle has been agreed)
- visit tenants when 3 weekly payments are missed
- agree realistic repayment schedules with tenants to reduce arrears based on their financial circumstances.

6. AFFORDABLE ARRANGEMENTS

6.1 Interviews

Interviews will be carried out in the tenant's home, the office or at an agreed suitable location. The tenant can be accompanied by a relative, friend or advocate, who should be able to positively contribute to resolving the situation. All information provided will be treated in confidence. The purpose of the interview is to:

- obtain up to date information as to current family composition, income, expenditure, special needs etc.
- identify reasons for non payment of rent and discuss options to resolve the situation.
- advise the tenant on sources of advice and assistance which may be able to help them not only resolve their current problem, but who may also be able to provide information on other matters which could help them.
- confirm to tenants who refuse to provide relevant information, or agree and maintain a schedule of payments, that they are endangering their tenancy.

6.2 Agreements

Agreements to reduce arrears will be based on realistic affordable instalments over a specified period of time, taking into account the tenant's financial situation. When making agreements to pay, The Housing Service will, as far as possible, take into account other debts owed by the tenant to the Council to ensure that the overall burden on the tenant remains affordable. The tenant will receive written confirmation of the agreement and will be advised of the implications of non-payment.

7. RECOVERY ACTION

7.1 Broken Arrangements and Notice of Intent

If the payment arrangement breaks down, the tenant will be contacted to find out the reason for the lapse. They will be advised to commence the payment schedule or, depending on the amount missed, to renegotiate the arrangement. If neither is concluded, or the arrangement is broken for a second time, a Notice of Intent to Recover Possession of their home will be issued. A covering letter will be issued with the Notice to inform the tenant as to why further action is being taken and to advise them to contact their Housing Officer to discuss their situation. They will also be advised that they can seek the assistance of the Citizens Advice Bureau who may be able to help them.

During the four week period prior to the Notice becoming live, the housing officer will visit the tenant in order to negotiate a further repayment schedule and to explain the seriousness of their situation and the possible outcome of their actions should they continue not to pay their rent.

7.2 Court Warning Notice

In accordance with the recommendation of the Homelessness Task Force (2000), Housing Officers will encourage tenants threatened with eviction due to rent arrears to contact independent financial and debt management advisors who can provide advice, advocacy and support services.

7.3 Implementing Legal Action

The Housing Service will take action to repossess a tenancy when all other reasonable options have been taken and failed. Legal action will be authorised by Assistant Area Manager or Area Manager.

Housing Officers will continue to discuss options, sources of advice and assistance and methods of repayment of arrears with tenants until the case is called at the Sheriff Court.

An appointment will be made for the tenant with the Housing Options Team, if appropriate.

When legal action has been authorised the tenant, Legal Services and Social Work Services will be notified in writing.

The Homeless Team will be informed when decrees to evict have been granted by the Sheriff Court.

7.4 Post Decree

When the Court has granted a decree to evict, the Scottish Secure Tenancy (SST) ends on the appointed date for eviction and the Council has the right to recover possession on or after that date. On the appointed date of the eviction, the Council can:

- obtain vacant possession of the property; or
- in certain circumstances, set out in Schedule 6 of the Housing (Scotland) Act 2001, provide a Short SST, for example, in need of support; or
- define the tenant as homeless and provide temporary accommodation in the same property in accordance with its duties and powers under the homeless legislation.

7.5 Serial Decrees

Where a tenant allows their rent account to fall into arrears and pays the account prior to eviction, then proceeds to run up arrears again, compelling the Council to return to Court for a further decree, we will charge interest on the second decree and proceed with eviction on the third decree regardless of whether the payment is made. The tenant will be given prior warning of these actions in both scenarios.

7.6 Court Expenses

All court expenses will be re-charged to the tenant in full unless there is good reason not to do so.

8. EVICTION

8.1 Eviction Authorisation

Area Manager (or nominee) will authorise the eviction having ensured that all procedures have been properly enacted. Sheriff Officers will be contacted to make appropriate arrangements.

Written notice of the eviction will be issued 14 days prior to the event, giving date and time, and will be sent to:

- The Tenant
- Local Elected Member
- Head of Housing Service
- Housing Services Manager
- Homeless Strategy and Services Manager
- Executive Head of Social Work
- Head of Financial Services

One week prior to the eviction, the Housing Officer will visit the tenant to assess the need to store furniture etc. and provide relevant information.

One day prior to the eviction, the Housing Officer and witness will hand deliver a final letter reminding the tenant of the intention to evict, indicating the time of the eviction.

Confirmation that the eviction took place, or was cancelled will also be sent to the above group.

8.2 Appeal of Eviction Decision

A tenant has a right to appeal against the decision of the Area Manager to evict them for non payment of rent, in writing to Head of Housing (or nominee). Tenants will be advised that they can seek assistance from the Citizens Advice Bureau on how to prepare their appeal. The appeal should be lodged within 7 days of receipt.

9. MONITORING AND EVALUATION

9.1 Monitoring

The Housing Service will use the Integrated Housing Management software to record all actions and contacts with tenants on matters relating to rent arrears. The Service will commence action on accounts which show two weeks or more in arrears and thereafter on a weekly basis. A first reminder letter will be sent to the tenant at 2 weeks, with a first home visit at 3 weeks, followed by weekly monitoring of the account and appropriate action taken should the level of arrears remain unacceptable.

9.2 Sub Accounts

Arrears which are non-actionable, e.g. sequestered balances will be moved into a sub account. These balances will continue to be monitored and any appropriate methods of recovery will be used.

9.3 Evaluation

The success of the Arrears Control Policy with regard to performance in reducing arrears levels will be reported to Committee on a 6 monthly basis. The policy will be periodically reviewed in accordance with the Review Framework set out in the Business Plan.

10. LOCK-UP ARREARS

Lock-up Arrears will be pursued when 4 weekly payments have been missed. Tenants falling into arrears will be given an opportunity to make an arrangement to pay off the arrears. In the event that the agreement is not adhered to, we will seek to recover possession of the lock-up. There is not the same requirement to go through the legal system to recover possession; therefore a Notice To Quit will be served on the tenant giving 14 days notice of eviction from the lock-up. Any costs associated with the removal of goods from the lock-up or lock changes will be re-charged to the tenant.

11. FORMER TENANT ARREARS

Every effort will be made to prevent Former Tenant Arrears accruing. Outgoing tenants will be advised of any rent monies which are due or will become due until their date of leaving. Outgoing tenants will be encouraged to provide a forwarding address. Where Former Tenant Arrears accrue, systems will be checked to identify a forwarding address. Where an address is provided, we will write to the former tenant advising them of the amount of the debt and how to contact us to make arrangements to pay. Any arrangement to pay will be confirmed in writing. A reminder letter will be issued to debtors who fail to respond. Where there is no forwarding address, or where the former tenant fails to respond, or where there is a breakdown of the agreement to pay, we may exercise the option of referring the debt to a Debt Recovery Agency.

12. WRITE-OFF

Debts pertaining to deceased or tenants permanently hospitalised or permanently admitted to a care home will be presented to Committee for write-off along with former tenant debts of less than £15. Where the Debt Recovery Agency has exhausted the mechanisms to recover the debt and it becomes no longer viable to pursue, these debts will also be presented to Committee for write-off. Sequestered balances which have been discharged will be presented for write-off.