

Guide on Effective Rent Arrears Management

Introduction

1. This guide supports the summary and the *Improving the Effectiveness of Rent Arrears Management: Good Practice Guidance* published by ODPM (now DCLG) in June 2005. It draws on the findings of research carried out by Glasgow and Heriot Watt Universities on the use of possession actions and evictions by social landlords. See:

<http://www.communities.gov.uk/index.asp?id=1153714>

The cross references within the text refer to pages in the Good Practice Guidance.

2. The guidance is aimed at social landlords and all levels of a landlord's rent arrears management service – from the governance (elected local authority members and elected Registered Social Landlord board members) through to the practitioners (housing officers) and stakeholders (tenants and their associated representative bodies). It sets out clearly the DCLG view, supported by Housing Corporation regulatory guidance emphasising that social landlords should seek to maintain and sustain tenancies, rather than terminate them and that eviction should be used as a last resort¹. The Civil Justice Council have provided a pre-action protocol relating to proceedings for claims made by a social landlord against a tenant for possession due to rent arrears. The message of that pre-action protocol reflects that contained within this guidance that eviction proceedings should be a last resort.

¹ Housing Corporation (2004) Regulatory Circular 07/04: Tenancy Management: Eligibility and Evictions, Housing Corporation.

3. Eviction has high social and economic costs. Landlords should, therefore, place increasing emphasis on alternative approaches with a focus on preventative, rather than reactive strategies. Vulnerable tenants (eg, those with mental-health or alcohol and drug misuse problems) may be particularly liable to accumulate arrears if not given appropriate support. The impact of eviction can be major, as once evicted, former tenants are often disqualified from social housing. Landlords can do a great deal to help such individuals and attention should be given to the proposals contained within this guide.

4. This guide highlights the following from the summary and guidance:

- the need for a strategic approach to prevent and manage rent arrears;
- it is more cost effective to employ preventative strategies than seek redress through the courts;
- the importance of organising rent collection to maximise effectiveness of arrears management;
- the value of using a range of preventative measures to help sustain tenancies and minimise the use of possession action.

Assessing cost-effectiveness

[PP 69-76]

5. It is important that landlords achieve value for money in their rent arrears service.

- Landlords should develop a more sophisticated awareness of the real cost of their rent arrears management services and, in particular, the true cost of evictions. The starting point for such an exercise is to imagine the shape of the service if all rent payments were made on time.
- The costs of rent arrears fall not only on the landlord (and on other tenants) but also on indebted tenants themselves, in terms of social and health consequences. Costs are also borne by Social Services departments and other welfare agencies.

- In estimating the landlord cost of arrears management the following elements need to be taken into account: IT software and hardware, letters and phone calls, staff time, legal costs and void costs. In all, Shelter estimates that the typical cost of evicting a tenant for rent arrears totals £1,900-£3,200.

- Landlords' tendency to understate the costs of eviction makes some of the alternatives appear relatively expensive. In fact, greater investment in measures such as incentive schemes, enhanced welfare benefits advice or debt counselling may be good value for money, even in narrow terms.

Strategic approaches

[PP 11-18]

6. Social landlords should regularly review their approach to and management of rent arrears, develop a strategy for managing arrears and periodically assess how performance can be improved.

- Guidelines on the use of possession actions will form an essential component of any rent arrears strategy, but these must be set within a framework involving a range of alternative and/or complementary measures.
- Rent arrears strategies must emphasise proactive, preventative, approaches rather than being focused mainly on reactive enforcement measures.
- In developing (and reviewing) rent arrears strategies, social landlords should involve all relevant stakeholder organisations and groups (including tenants' representatives).
- Any rent arrears strategy must be backed up by detailed procedure guides for frontline staff and colleagues. Such procedures should, however, allow for the exercise of some staff discretion in policy implementation.
- In shaping their strategies, social landlords should develop a clear analysis of the incidence and pattern of rent arrears among their tenants.

Preventative measures

[PP 26-36]

7. It is important to ensure that staff are effectively trained to deal with rent arrears. Below is some good practice guidance for social landlords in developing policies and procedures for preventing rent arrears.
- A wide range of options for making rent payments should be provided by landlords. These should be flexible, accessible and convenient to use. With the move to deposit all pensions and benefits in recipients' bank accounts, setting up rent payments by standing order or direct debit should become more widely feasible.
 - Encourage tenants to inform landlords of any change in their personal circumstances and any likelihood of them missing a repayment. This requires landlords to create a supportive environment where tenants feel able to report difficulties rather than avoiding them.
 - Landlords should promote a rent payment culture. This should involve highlighting the connection between rent payments and the landlord's ability to deliver high quality services, as well as publicising the potentially serious personal consequences of accumulating arrears.
 - It is important to regularly publicise the landlord's actions to recover arrears. This may be achieved through routine tenants' newsletters, as well as through periodic media campaigns – e.g. involving poster advertising, news releases etc.
 - The Rent Arrears Pre-Action Protocol (due to be introduced in October 2006) aims to encourage pre-action contact between parties and provides a structure to be followed by landlords who are considering issuing court proceedings. The court will take into account whether the protocol has been followed when considering what order to make.
 - Landlords should consider seriously the merits of 'incentive schemes' where rent payment or the honouring of arrears repayment agreements is positively rewarded.
 - Landlords should ensure effective information collection, storage and use of information about the tenant to enable a service that is shaped around their individual needs and circumstances, for example, contact details and any support they receive. This should be collected and updated before and throughout the life of a tenancy.
 - In preventing arrears and instilling a payment culture, landlords should place a particular focus on new tenants. Routine tenancy sign-up procedures should include introductory interviews to provide information to:
 - clarify the responsibility of tenants, including those receiving Housing Benefit, for ensuring that rent payments are being made punctually and regularly;
 - outline the range of methods available for rent payment and identify the most appropriate method for the individual tenant;
 - explain the information on rent account statements;
 - offer to assist tenants to complete Housing Benefit applications;
 - assess tenants' income and calculate benefit entitlement;
 - offer a wider 'benefits health check to ensure that tenants are claiming all the sources of income they are entitled to;
 - outline the range of support options for tenants experiencing difficulties in paying their rent;
 - make tenants aware of the range of local debt and welfare advice agencies, including the provision of contact information, and encourage tenants to use these services;
 - make it clear to tenants that whilst support will be provided, non-payment of rent is taken very seriously and will lead to action;

- identify tenants who may be vulnerable and refer them for an appointment to assess possible support needs.
- Settling-in visits – e.g. one month into new tenancies – are strongly recommended as a routine element of rent arrears management practice.

Maximising tenants' income

[PP 37-47]

8. Landlords can help by working to maximise tenants' incomes and assisting them to manage their finances – this can have a major impact on their ability to pay their rents.
 - Landlords can and should actively assist tenants with Housing Benefit claims – e.g. through advice on required documentation, help with form completion, emphasis on the need to notify the Housing Benefit office of changes in claimants' circumstances etc.
 - Barriers obstructing contact between social landlord staff and Housing Benefit officers should be tackled. As well as staging regular face-to-face meetings, it is recommended that the parties negotiate Service Level Agreements and/or protocols to regulate their relationships.
 - Landlords should work with HB colleagues to establish housing officer access to Housing Benefit information systems and case records. Rent recovery staff training programmes should incorporate modules to facilitate this.
 - Landlords should consider the potential advantage of employing specialist welfare benefits advisors. In any event landlords should develop a clear awareness of local agencies performing this function and, where necessary, set up formal referral procedures for tenants potentially in need of such help.
 - Debt counselling – as distinct from welfare benefits advice – should be made available to tenants behind with their rent. Landlords should consider carefully the relative strengths of in-house and contracted-out provision of such services.

- Landlords relying on externally provided debt counselling services should set up formal referral arrangements for tenants in need of such services, backed up by documented agreements and/or funded contracts.

The organisation of rent arrears management

[PP 19-25]

9. There is a range of organisational structures for managing rent arrears. There are benefits from either the generalist or specialist model or approach.
 - Growing numbers of social landlords are moving towards a more specialist model of managing rent arrears. The benefits of such an approach may include a more consistent and professional approach, as well as building better relationships with the courts and with other key stakeholder agencies.
 - Generic working is a more holistic approach to managing arrears and can help staff in developing local knowledge as well as being more flexible from a managerial perspective.
 - Whether organising rent collection as a specialist or generic function, landlords should make arrears prevention an organisational priority, should ensure that communication between relevant staff is robust, and should attribute responsibility for elements of the rent arrears recovery process clearly.
 - Effective rent arrears management demands that staff are highly trained in a range of areas including welfare benefits regulations, the legal framework for rent recovery, and sensitive approaches to debt collection.

Managing rent arrears

[PP 48-56]

10. Tenants' views should feed into the development and review of procedures for managing rent arrears. Early contact with tenants in arrears is important.

- In communicating with tenants about rent arrears, landlords should place emphasis on direct personal contact rather than correspondence – particularly where this involves written correspondence through standard, system-generated, letters. However, for audit trail purposes, written correspondence should not be discounted.
- Personal contact is generally preferable to impersonal communication as letters can be more easily ignored or misunderstood. Personal contact helps staff understand reasons for arrears. This provides an opportunity for negotiation.
- Landlords should make use of a variety of methods to facilitate personal contact with tenants in arrears – e.g. office interviews, home visits, telephone contact. E-mail or text messaging can be useful in alerting tenants to problems and/or setting up interviews.
- Attempts to negotiate arrears repayment agreements should continue alongside any legal action and should not cease until the bailiff’s visit.
- In negotiating repayment agreements, landlords should offer tenants the option of lump sums, instalments or a combination of the two. Direct deductions from benefits or earnings should also be considered.
- Existing regulatory and good practice guidance for registered social landlords stresses that eviction is the last resort.
- Prior to court action landlords should seek a meeting with the tenant and agencies supporting them if appropriate, whilst also reviewing the tenant’s personal circumstances and actions taken.
- Landlords taking tenants to court should encourage and assist the tenant to contact agencies providing relevant advice, and/or counselling services, as well as to access legal advice and to attend hearings.
- During court proceedings, and where a repayment agreement has already been struck, it is good practice to seek an adjournment on terms rather than a postponed Possession Order (note: following the introduction of an amended possession procedure in July 2006, as a result of the decision in Harlow DC v Hall, a possession order where possession is deferred will be called a “postponed possession order”, replacing the previous widely used but incorrect “suspended possession order” and this replacement term should be read into the guidance).
- Landlords should develop closer relations with the courts – e.g. through participation in-court users groups, designation of trained staff to carry out court work, or through seeking feedback from legal experts on case presentation.

Legal and Court Processes

[PP 58-67]

11. In some cases legal action for the termination of a tenancy and possession of the property are the only option left available.
 - Tenants should never be served with a Notice Seeking Possession (NOSP) until the landlord has established personal contact or exhausted all possible means of doing so.
 - NOSP should be served on tenants with unresolved Housing Benefit claims only where it has been established beyond doubt that the claim remains outstanding due to the tenant’s failure to supply requested information or provide requested documents or if the tenant is failing to pay agreed personal contributions.
 - Pre-eviction procedures should be incorporated within rent arrears and homelessness strategies. These should include, for example, notification of Social Services and homelessness departments, as well as information sharing with other social landlords in the locality. This should comply with the 1998 Data Protection Act.
 - Former tenants with unpaid rent arrears may be eligible for assistance under homelessness provisions. In addition they should not be automatically debarred from rehousing. Applications from those honouring repayment agreements should be considered where this is in accordance with the allocation scheme.

- Existing CIH good practice guidance for housing associations discourages the use of Housing Act 1988 'Ground 8' powers to seek repossession.

Conclusions

12. Social landlords should seek to maintain and sustain tenancies and should only seek to terminate a tenancy and evict as a last resort.
13. Landlords should have in place a clear strategy for preventing and managing rent arrears, produce clear guidance for officers and have in place robust systems for prevention and management. They should put in place measures to prevent arrears accruing and seek to maximise rental income.
14. Where arrears have accrued landlords should seek early intervention through personal contact with the tenant, offering support and advice and agreeing a way forward for recovering the arrears. These strategies should be evaluated for cost-effectiveness and overall effectiveness.

Further Information

Further information about rent arrears management is available on the DCLG website: www.communities.gov.uk/housingmanagement see under > Local authority housing

This guide is available via the DCLG website or from:

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