



POLICY DOCUMENT

Group Member: WESTWAY HOUSING ASSOCIATION LIMITED

Service Area: Property Services

Document Ref No: WHA

Subject Title: Current Customer Arrears Policy

Version: 1

Effective Date: 03/08/2020

Last Reviewed: 05/04/2015

Next Review Date: 03/04/2023

Document Owner: HEAD OF HOUSING

Date of Board Approval: 29/07/2020

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1. INTRODUCTION

- 1.1 This policy and Procedure relates to Westway Housing Association's ("WHA") position on customer arrears

2. SCOPE OF THE POLICY

- 2.1 This policy applies to all tenants, including shared owners housed with WHA (together referred to as "customers")
- 2.2 This policy applies equally to partners of named customers. It does not apply to other occupiers, such as squatters, relatives who have no succession rights, or licensees.

3. AIMS & OBJECTIVES

- 3.1 The aims of this policy are:
- 3.1.1 To maximise WHA's rental and service charge income so that it can meet its financial obligations.
 - 3.1.2 To prevent rent and service charge arrears whenever possible by ensuring that customers are aware of their obligation to pay rent and by providing them with appropriate advice and assistance.
- 3.2 WHA seeks to achieve this aim by implementing thorough and considered procedures detailed in the following paragraphs of this policy.

4. POLICY STATEMENT

- 4.1 In implementing this policy and procedure WHA will not discriminate against any customer on the grounds of their race, ethnic, origin, gender, sexuality, marital status, disability, age, religion or class
- 4.2 WHA will be sensitive to customers' individual needs and tailor its services where resources permit.
- 4.3 This policy complies with the requirements of housing legislation and the expectations of the Regulator of Social Housing

5. CONFIDENTIALITY

- 5.1 WHA will treat as confidential all information on the personal circumstances of a customer, A customer's rent and service charge arrears position or other personal circumstances will not be made known or implied to any other person unless WHA is

authorised by the customer or required by law to disclose this information. WHA's Confidentiality Policy gives more information on this.

6. APPROACH TO RENT AND SERVICE CHARGE COLLECTION

- 6.1 WHA consider rent and service charges to be the most important financial commitment a customer makes. WHA expects customers to prioritise rent and service charges above other bills. WHA will inform customers of the need for them to co-operate with WHA in resolving any difficulties that they have with their rent account.
- 6.2 All rent and service charges are due in advance and should be paid in advance. WHA will notify customers promptly when they fall into rent and service charge arrears and offer suitable advice and assistance.
- 6.3 WHA will have regard to the customer's personal circumstances when it considers the most appropriate method of rent and service charge arrears recovery.
- 6.4 WHA may make an offer of suitable alternative accommodation to a customer who cannot afford the rent where possible and where the customer wishes to move to a smaller property. If this offer is refused WHA may ask the court to make an outright possession order where that customer is also in rent arrears at the time of the court hearing.
- 6.5 In the case of the elderly or vulnerable people¹, or where children are involved, WHA will seek to involve people or agencies who are already involved with the customer or who can give appropriate support to them when WHA consider arrears recovery action.

7. ADVICE TO CUSTOMERS

- 7.1 WHA will offer advice to all customers to help them claim housing benefit including the housing payment element of Universal Credit. WHA will also advise customers of appropriate advice agencies who may help them with claims or other benefits. WHA will ensure compliance with the requirements of the Pre Action Protocol for Possession Claims by Social Landlords.
- 7.2 For vulnerable customers we will assist them or alternatively make a referral to an appropriate support agency to complete and progress housing and other welfare benefits claims.
- 7.3 WHA will give advice on the availability of debt counselling services to customers who are in financial difficulty.

¹ The term 'vulnerable people' includes people with mental health problems, learning difficulties or physical disabilities, the elderly, children under 18 and others who find considerable difficulty in handling their affairs.

7.4 WHA will always try to communicate with customers in an appropriate way to ensure that they understand what WHA is telling them about their rental payment responsibilities. WHA will also explain clearly the implications for them of any action WHA is taking to recover rent arrears.

8. CUSTOMERS CLAIMING THE HOUSING BENEFIT ELEMENT OF UNIVERSAL CREDIT

8.1 WHA will encourage all customers in receipt of the housing payment element of Universal Credit to have their benefit paid directly to WHA.

8.2 Where reasonable, WHA will continue to follow the rent and service charge arrears collection procedures where a customer's housing payment element of Universal Credit is not being paid

8.3 WHA may also proceed with legal action against a customer if they are in arrears on any part of the rent and/or service charge due which will not be met by the housing payment element of Universal Credit.

9. FRAUDULENT BENEFIT CLAIMS

9.1 WHA will investigate where it believes a customer has made a fraudulent claim for the housing payment element of Universal Credit. Where we have reasonable evidence of a fraudulent claim WHA will notify the Department of Work and Pensions

10. RENT AND SERVICE ARREARS RECOVERY

10.1 Where feasible without causing undue hardship WHA will encourage customers to pay off debts fully before offering an arrangement to repay arrears in instalments.

10.2 The agreements WHA makes with customers for the repayment of arrears will be based on its assessment of what the customer can afford. WHA will regularly review the terms of agreements to see if they are still appropriate considering what WHA knows about the customer's income, their other outgoings and the size of the debt.

10.3 Where WHA serve a Notice of Seeking Possession it will normally use a discretionary ground for possession², including relying on Grounds 10 and 11 in Schedule 2, Housing Act 1988, as amended, when taking possession proceedings against an assured or an assured shorthold customer. WHA may use mandatory grounds, including Ground 8 in Schedule 2, Housing Act 1988, as amended, together with other

² Grounds for possession are grounds in law under which, if proved, a landlord can gain an order of possession of a property from a court. Grounds can be discretionary or mandatory.

In the case of discretionary grounds a court will only grant possession if the judge thinks it is reasonable to do so, given the facts in the case. For a mandatory ground, once the landlord proved the ground the judge has no option but to grant an outright order for possession of the property.

Grounds, where appropriate when WHA has evidence that the arrears may have arisen due to an intentional act or omission by the customer.

10.4 When WHA refer cases to court it will normally bring proceedings using discretionary grounds. WHA may use mandatory grounds where it believes that the arrears may have arisen as a result of a deliberate act or omission. WHA's interpretation of deliberate will have regard to the customer's circumstances and the facts of the case.

10.5 When WHA go to court to seek possession it will normally:

10.5.1 Seek an outright possession order where the customer has failed to take what WHA regard as reasonable steps to reduce their arrears and no household members are vulnerable. WHA will also normally seek an outright possession order where the customer has been made an offer of suitable alternative accommodation but has refused that offer.

10.5.2 Seek a suspended possession order where a household member is vulnerable or where WHA have good reason to believe that the customer will take this final opportunity to repay their arrears.

10.5.3 Seek to adjourn, possibly on terms, if WHA believe that the customer has a reasonable chance of repaying most of the debt or has agreed to move to suitable alternative accommodation where the customer is able to afford to pay that rent.

N.B. WHA shall make exceptions to the above where it has evidence that the customer has abandoned the property or committed serious anti-social behaviour or harassment.

10.6 For customers in employment WHA may ask the court to make an attachment of earnings order.

10.7 WHA will never ask the court to make a distraint order (the seizure of goods to repay the debt).

10.8 WHA will normally ask the court to make an order for court costs.

11. **EVICITION**

11.1 WHA will seek an eviction:

11.1.1 Where WHA has an outright possession order against a customer; or

11.1.2 When the customer breaks the terms of a suspended possession order if WHA consider it reasonable to do so.

- 11.2 WHA will normally cancel an eviction date if the debt is cleared in full, including all court costs, including the bailiff's fee. However, in exceptional cases with a history of persistent non-payment, WHA may proceed with an eviction even when the debt is cleared. Examples of where WHA may do this include where the customer has committed serious anti-social behaviour or harassment.
- 11.3 WHA will suspend an eviction where ordered to by the court. Where a customer seeks a suspension, WHA will agree to the suspension where significant lump sum payments are made and WHA is satisfied with the promised repayments on the outstanding debt.
- 11.4 Where WHA is concerned about a customer's continuing support needs WHA will try to advise them on how to find alternative accommodation following eviction. WHA will also notify the local authority and relevant advice or support agencies.

12. **BANKRUPTCY AND DEBT RELIEF ORDERS**

- 12.1 WHA may consider possession proceedings against customers who are bankrupt or who have been made the subject of a Debt Relief Order. WHA shall weigh up the same criteria as in all other cases.

13. **MONITORING**

- 13.1 The implementation of this Policy will be monitored by regular reporting to the Director of Housing Services and the Senior Management Team.

14. **COMPLAINTS PROCEDURE**

- 14.1 Any individual who feels that this Policy has been unfairly applied or who has suffered loss or damage as a result of WHA's actions may use the Complaints, Comments and Compliments Policy and Procedure