

# TAMIL COMMUNITY HOUSING – ARREARS POLICY

## Arrears Prevention and Recovery Policy

### Purpose and Scope

This policy sets out the approach to arrears prevention and arrears recovery for assured and assured shorthold tenants in homes owned and managed by TCHA.

### Policy Aims and Objectives

The objective of this policy is to prevent tenants from getting into serious arrears, and to take prompt firm action to recover rent arrears before they escalate.

Rental income, including service charges, is the main source of revenue for TCHA, and is essential to funding high standards of service delivery. It is vital that efficient and effective procedures operate for income collection and the recovery of any arrears. TCHA also recognises that tenants may need help and support to maximise their income, and manage their financial commitments. TCHA therefore aims to provide an income recovery and arrears management process that combines efficient debt recovery processes with arrears prevention through welfare advice and debt counselling, including referral to specialist agencies.

In order to achieve this TCHA aims to:

- Make new tenants aware of their responsibilities as part of tenancy sign up
- Take steps to prevent rent arrears from occurring, and increasing
- Support tenants to maximise their income and manage their finances through welfare benefits advice and referral to money advice agencies
- Help tenants to sustain their tenancies and work with welfare support providers
- Take prompt action to recover arrears
- Keep comprehensive records of communication and arrears action
- Use legal action to recover arrears as a last resort
- Comply with the Rent Arrears Pre-action protocol
- Achieve upper quartile performance in rent arrears recovery

### Definitions

#### Pre-action protocol

A guide introduced by the Civil Justice Council relating to proceedings for claims made by a social landlord against a tenant for possession due to rent arrears.

### Content

TCHA has statutory and regulatory responsibility for the properties that it owns. It also acts as a managing agent for other Registered Social Landlords (RSLs), and is

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responsible for managing arrears recovery on their behalf under the terms of a management agreement.

TCHA manages different tenures within its directly owned and managed stock:

TCHA directly owned properties:

- Social rented homes let on TCHA Assured Tenancies
- Short term leased homes let on TCHA Assured Shorthold Tenancies
- Shared housing for the elderly and hostels let on Assured Shorthold Tenancies
- Private sector homes leased by TCHA let on Assured Shorthold Tenancies

TCHA managed properties:

- Social rented homes owned by other RSL's let on their Assured Tenancies
- Private sector homes leased by an RSL let on their Assured Shorthold Tenancies as temporary homeless accommodation

All tenants are expected to pay their rent and service charges weekly in advance in accordance with the provisions of their tenancy agreement.

TCHA will adopt a firm but fair approach to managing arrears that takes account of individual tenant circumstances, and is sensitive to equality considerations including vulnerability, language and literacy.

TCHA will support and contribute to the development of financial inclusion initiatives with local authorities and other partners. This will include signposting tenants to credit unions, budget advice, money advice, and other support services.

We will offer a range of payment methods, including:

- Standing order
- Allpay
- Post office giro
- Cheque
- Cash

TCHA will keep tenants informed about their rent account by issuing six monthly statements.

The approach to arrears will be on prevention, ensuring that new tenants are made aware of their responsibilities for rent payment at tenancy sign up, and provided with benefits advice, and/or referred for supporting people assessment. TCHA will establish and maintain good working relationships with the council's housing benefit departments and welfare benefits advice agencies, by developing service level agreements or operating protocols. We will maintain a register of community agencies able to offer welfare benefits advice, money advice and support.

We will ensure that tenants are advised about their rights to seek legal advice and representation, including the use of advocates to help with communication.

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We will use personal contact at an early stage to recover arrears and prevent them from escalating, including seeking to recover any other sundry debts e.g. rechargeable repairs. Any agreements reached for the repayment of arrears must be reasonable taking account of the tenant's ability to pay, and achieve repayment within an acceptable timescale.

Personal contact will be backed up by written confirmation of any agreement reached and/or action that is to be taken, including welfare benefits advice or support. Tenants who are regarded as vulnerable due to their health, disability or age factors will be managed sensitively and where appropriate in liaison with their advocates or support workers.

Where tenants do not respond to efforts made to arrange personal contact or fail to maintain agreements for arrears repayment without an acceptable reason, legal action to recover possession of the property will be taken having regard to the **pre-action protocol**. Efforts to prevent eviction and recover the arrears will continue to be taken throughout any legal process.

TCHA will not start possession proceedings where arrears are due to an outstanding housing benefit claim, unless there is evidence of intentional delay in making the claim. The tenant must be able to demonstrate a reasonable expectation of eligibility and provide proof of the claim submitted.

TCHA will use all forms of legal action available to recover arrears, and all legal grounds available to seek possession, unless a contractual commitment is given in the tenancy agreement or the agency management agreement not to make use of a specific ground.

We will seek to help tenants to sustain their tenancies and prevent homelessness. Proposals to evict a tenant will be subject to a decision made by a panel consisting of the Chief Executive and at least one Board member. We will inform the relevant local authority's homelessness team where a proposal or a decision to proceed with an eviction is made.

If arrears remain at the end of a tenancy, TCHA will seek to recover the former tenant debt initially through personal contact or by use of a tracing agency, and where this fails through a debt collection agency. Where the tenant is deceased a claim will be made against their estate via their next of kin or the Treasury solicitor.

Approval to write off irrecoverable former tenant debts will be authorised in accordance with Financial regulations and procedures, including circumstances where.

- Former tenant arrear is not economic to pursue
- The former tenant not traceable
- The tenant died leaving no estate

The TCHA Board will be responsible for agreeing the future introduction of any policy to write-off or set aside current tenant arrears, or other arrears incentive scheme.

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Arrears recovery performance is a key performance indicator, and will be monitored against annual targets reported to the TCHA Board.

## Accountability

The Housing Service Manager is responsible for the implementation of this policy.

## References

### **Housing Act 1988 and 1996**

Provides the legal grounds for possession.

Section 21 sets out the procedure for issuing Notice to Quit to end an assured shorthold tenancy.

### **Protection from Eviction Act 1977**

Defines the required information to be provided with a Notice to Quit and the use of possession proceedings through the court.

### **Mental Capacity Act 2005**

If a tenant who lacks the capacity to deal with their arrears is not provided with appropriate support and assistance they may have a legal defence on the basis of disability discrimination

### **CRE Code of Practice for Racial Equality**

Contains a requirement to ensure that people of different racial groups are made aware of their rights and entitlements to benefits and that information is made available in forms to communicate those rights.

### **Rent Arrears Pre-Action Protocol 2006**

Is the operating protocol that defines the action that must be followed for arrears recovery.

### **Harlow v Hall 2006 Arrears recovery in bankruptcy**

Arrears are no longer required to be written off in the event of bankruptcy.

### **Housing Act 1996 s124**

Introductory tenancies.

### **Human Rights Act 1988**

Defences to legal action for possession may sometimes be brought under the provisions of the Human Rights Act. Case law developments include:

#### **Barber v Croydon LBC**

Court of appeal decision confirms the obligation to follow policy and procedures

#### **Manchester City Council v Pinnock 3<sup>rd</sup> November 2010**

In response to a Human Rights Act defence the Supreme court's decision requires that courts must test the proportionality of a landlords decision to take mandatory possession proceedings.

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## **The Social Security Fraud Act 2001**

Makes it an offence for a landlord receiving direct payments to fail to report the fact that a tenant has moved once they are aware of it.

### **Review**

The arrears policy will be kept under regular review in line with changes in good practice and to take account of changes in the law. The policy will be reviewed at least every two years.

The arrears policy will require approval of the Board.

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