

TCHA - RENT ARREARS POLICY

1.0 PURPOSE & SCOPE

- 1.1 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.
- 1.2 TCHA maintains an efficient rent collection service. TCHA recognises that engaging with and fostering a payment culture is the most effective method of collecting rent. We recognise the social and economic cost of eviction; therefore, we will take a preventative, proactive and supportive approach when dealing with rent arrears.
- 1.3 TCHA has statutory and regulatory responsibility for the properties that it owns and is responsible for managing arrears recovery. All tenants are expected to pay their rent and service charges weekly in advance in accordance with the provisions of their tenancy agreement.
- 1.4 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.
- 1.5 TCHA will:
 - Aim to maximise rental income and minimise resident debt
 - Promote tenancy sustainability by recovering rent arrears
 - Ensure compliance with the Pre-Action Protocol for Possession Claims for Social Landlords
 - Ensure that we are sensitive to vulnerabilities and mental wellbeing
 - Comply with the Commitment to Refer

Covid-19	We will also ensure that we consider the financial impacts that the pandemic may be having on the resident or their household members. We will always follow the latest government guidance when managing income collection.
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2 AIMS & OBJECTIVES

- 2.3 This policy is based on the principle that it is the tenant’s duty to pay the rent. 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.
- 2.4 TCHA will take early action to recover arrears before debts go beyond control and to avoid the need for legal action. Before any legal action is begun, attempts will be made to see the tenant in person and discuss the reasons for the debt. It is TCHA’s practice to help residents manage their debt and maximise their income by providing basic advice on welfare benefits and assisting where necessary with claims and debt counselling, including referral to specialist agencies.

In order to achieve this TCHA will ensure the following objectives are met:

2.5 Resident Obligations

2.5.1 Residents are responsible for paying their rent and any service charges, as stated in their tenancy or licence agreements. New residents will be made aware of their responsibilities as part of tenancy sign up and that they are responsible for informing TCHA if they are experiencing problems with paying their rent. This includes residents who are in receipt of Housing Benefit or Universal Credit.

2.5.2 To respond to requests for information from TCHA, DWP, Universal Credit and HB.

2.4 Pre-tenancy Management

2.4.1 TCHA will ensure that new tenancies are sustainable to prevent residents from falling into arrears. We will:

- Complete an affordability check before offering accommodation to ensure that the prospective resident is aware of the cost of their new home and all are confident that the tenancy can be sustained
- Complete an income and expenditure assessment with the prospective resident to ensure that we are satisfied that the property is affordable
- Encourage residents to build up 1 month credit on their rent accounts
- Refuse nominations of prospective residents based on failing the affordability assessment.
- Ensure an advanced payment of at least one week's rent is made, before a new tenancy agreement is granted. Failing this could lead to tenancy being withdrawn.

2.5 Tenancy Sustainment

2.5.1 TCHA will take steps to prevent rent arrears from occurring, and increasing by:

- Support tenants to maximise their income and manage their finances through signposting to welfare benefits advice and referral to money advice agencies
- Take 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

2.5 Promoting a payment culture

2.5.1 TCHA will:

- Encourage early payment to prevent residents from falling into arrears
- Signpost residents for support
- Maintain a good working relationship with Department for Works and Pensions (DWP) and local authorities
- Closely monitor rent accounts to identify problems at an early stage and provide regular rent statements
- Refer tenants with vulnerabilities or additional needs to the relevant support services
- Identify any communication needs and provide alternative formats where required
- Encourage residents to inform us about any changes in circumstance that may affect their payments

- Make an application for an APA where a customer is in receipt of Universal Credit and is in 8 week's rent arrears and if we have concerns about the resident's ability to pay rent falls within a DWP Tier One or Tier Two Factor grouping.

Covid-19

We particularly encourage residents to inform us if they have been financially affected by the pandemic.

3 DEFINITIONS

3.3 Rent & Service Charges

3.1.1 A payment due to TCHA, in accordance with the resident's tenancy agreement.

3.2 Arrears

3.2.1 Debt owed to TCHA when payments have not been made under the tenancy agreement terms.

3.3 Discretionary grounds for possession

3.3.1 These are grounds of possession that TCHA uses when serving a notice, in which the court can decide to, repossess the property.

3.4 Mandatory grounds for possession

3.4.1 These are the grounds for possession, which means the court cannot stop the property from being repossessed if the resident is still in breach of the grounds at the court hearing.

3.5 Alternative Payment Arrangement (APA)

3.5.1 This is where Universal Credit is paid differently; may include paying more than once a month, splitting the payment between claimant and partner, or being paid directly to the landlord.

3.6 Commitment to Refer

3.6.1 The Commitment to Refer is a voluntary scheme developed by the National Housing Federation to support the aims of the Homelessness Reduction Act by assisting households who are homeless or threatened with homelessness.

3.7 Pre-action protocol

3.7.1 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.

4 CONTENT

4.1 TCHA has statutory and regulatory responsibility for the properties that it owns and is responsible for managing arrears recovery. All tenants are expected to pay their rent and service charges weekly in advance in accordance with the provisions of their tenancy agreement.

4.2 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.

4.3 Providing Assistance for Residents in Arrears

4.3.1 TCHA will engage with residents if they fall into arrears. We understand that low level arrears can place some residents in a difficult situation. We will:

- Present the arrears information in easily accessible format and ensure residents understand the implication of arrears
- Send rent statements to residents
- Make every effort to make an affordable agreement with the resident to repay the arrears
- Support residents to maximise their income by referring to external agencies to provide assistance through welfare benefits advice and support to access grants and benefits claims
- Maintain a register of community agencies able to offer welfare benefits advice, money advice and support.
- Ensure staff are able to refer residents to specialist advice, e.g., signpost to debt counselling, and/or to independent advice
- Establish and maintain good working relationships with housing benefit departments and welfare benefits advice agencies, by developing service level agreements or operating protocols.
- Advise residents to find alternative housing options, where arrears have occurred due to change of circumstances, such as under occupation.
- Assured short-hold tenants who fail to engage and comply with a payment agreement, a decision may be taken to end the tenancy by issuing a notice of seeking possession or enforcing a section 21 (Notice Requiring Possession).
- Where fixed term tenants are in arrears at the end of their fixed term tenancy, a decision may be taken not to renew the tenancy.

TCHA does not offer financial advice.

4.4 Taking Legal Action

4.4.1 When taking legal action, we aim to recover any unpaid rent and we will:

- Keep residents informed of actions taken and continue to offer advice
- Comply with the Commitment to Refer procedure and liaise with the local authority homelessness unit if eviction is sought
- Encourage residents to attend court where appropriate, give information about independent advice and support
- Urge any vulnerable residents or minors to appoint a litigation friend
- Carry out evictions in line with policies and procedures
- Issue proceedings using grounds 8, 10 and 11 or all grounds depending on individual resident circumstances. This will be assessed on a case-by-case basis and in line with the Pre-Action Protocol.
- Ensure that tenants are advised about their rights to seek legal advice and representation, including the use of advocates to help with communication.
- We will not normally issue possession proceedings for arrears if:
 - A resident is complying with an arrear's payment agreement
 - There is an expectation that the Housing Benefit claim will be paid

- The tenant discloses financial information
- We receive confirmation from Discretionary Housing Payment that a partial or full payment will be made to clear the arrears
- A resident is in receipt of Universal Credit, an application has been made for an APA and the resident has been making payments towards a portion of the rent

NB: TCHA does not normally allow payment arrangements for longer than a 12-month period to avoid the tenant being burdened with long term debt.

4.5 Communicating with Residents

4.5.1 TCHA will:

- Have direct contact with residents at all stages of income collection
- Use a variety of methods to contact residents; write to them, home visits, telephone contact, emails, or texts
- Send automated communication to residents, such as letters, text messages and emails regarding rent arrears
- Provide information in alternative languages or formats if required
- Log all communication and correspondence made with residents regarding their arrears

Covid-19	During the pandemic, there may be times where some methods of contact will not be possible due to government restrictions.
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4.6 Confidentiality

4.6.1 TCHA will ensure that:

- All interviews regarding arrears will be carried out in confidence.
- Residents' rent account information will not be discussed with anyone outside TCHA without the resident's permission; this can be verbal or written.
- Where a resident is vulnerable and at risk of eviction and homelessness, we will contact the relevant support services, in line with our Data protection policy.
- We will share information with DWP where relevant.

5 FORMER RESIDENTS

5.1 TCHA aims to minimise income losses from former residents. We will:

- Require residents to repay any outstanding debts when the tenancy is ended
- Require a forwarding address is received
- Ensure when the tenancy is ended and the resident claims Housing Benefit or Universal Credit, that the Department for Work and Pensions or the local authority is informed.
- Pursue County Court Judgements (CCJ's)
- Pursue Bankruptcy where appropriate.

5.2 Where a resident leaves a property with arrears, we will continue to pursue unpaid debts according to our arrear's procedures. 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

5.3 TCHA Board will be responsible for agreeing, from time to time, any policy to write-off or set aside current tenant arrears, or other arrears incentive scheme.

6 ACCOUNTABILITY

6.1 The Board and CEO have responsibility for ensuring that this policy complies with Regulatory and Legislative requirements and in meeting the Association’s Business Plan and budget.

6.2 All staff involved in income collection activities are responsible for implementing this policy. Training will be provided to relevant staff.

7 REFERENCES

7.1 Legislation, regulation, and guidance

- Protection from Eviction Act 1977
- Housing Act 1985 (as amended by the Housing Act 1996)
- Housing Act 1988 (as amended by the Housing Act 1996)
- Housing Act 2002
- Social Security Fraud Act 2001
- Mental capacity Act 2005
- Deregulation Act 2015
- Coronavirus Act 2020

7.2 Further reading

- Pre-action Protocol for Possession Claims Based on Rent Arrears, Civil Procedure Rules, Ministry of Justice, 2020
- DWP Tier One and Tier Two APA Factor Groupings (see Annex A https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/181400/personal-budgeting-supportguidance.pdf)
- CRE Code of Practice for Racial Equality
- National Housing federation Commitment to Refer (<https://www.housing.org.uk/resources/commitment-to-refer---guidance-for-housing-associations/>)

8 REVIEW

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

8.2 This policy is due to be reviewed in 3 years, however due to the uncertainties surrounding COVID-19, TCHA will revisit the policy after 1 year.

9 Document Control

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Housing Management Policies & Procedures

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Approved by:	CEO – TCHA
Policy owner:	CEO – TCHA
Accountable Director:	CEO – TCHA
Who to contact?	CEO – TCHA

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