

HORIZON HOUSING ASSOCIATION LIMITED	<b>HOUSING SERVICES</b>
TITLE	<b>DEBT RECOVERY POLICY</b>
DATE OF APPROVAL	<b>NOVEMBER 2005</b>
DATE OF REVIEW	<b>NOVEMBER 2008</b>

## **1.0 POLICY STATEMENT**

### **1.1 Aim of Policy**

The Association aims to:

- Encourage tenants to be responsible for their actions in relation to money owed to the association;
- Encourage tenants to manage their debts;
- Adopt a consistent, sensitive and objective approach to the recovery of outstanding debts;
- Consider the financial and staffing resources required to recover the debt and ensure that the Association's actions are appropriate to the level of the outstanding debt;
- Work in partnership with other landlords to ensure tenants are held accountable for their outstanding debt without breaching the law on data protection.

### **1.2 Purpose of the Policy**

The intention of this policy is to ensure that tenants/customers receive a consistent and unambiguous approach to debt recovery. This will ensure that tenants/customers are aware of their responsibility for payment, and consequences of non-payment.

## **2.0 SCOPE OF THE POLICY AND DEFINITIONS**

### **2.1 Definition**

The Association has defined debt as:

Rent Arrears: non technical (rent payable directly by the tenant) and technical (housing benefit payable direct to the association by a local authority);

Service charges: non payment of invoices or charges for service, cyclical or major works;

Former tenant arrears: with or without forwarding address;

Rechargeable repairs: whether caused by wilful damage or not;

Court costs: where the court has awarded costs against the tenant or former tenant;

Interest accrued on an outstanding debt that is legally due but not paid;

Repayment of vouchers or compensation: when tenants or customers fail to comply with conditions of reward/compensation.

### **3.0 RESPONSIBILITIES**

The Management Committee has responsibility for the financial management of the Association, however as the debt relates to the provision of housing services, responsibility for implementation, monitoring and review of the policy is delegated to the Housing Services Sub Committee.

The Housing Services Sub Committee will consider proposals for the pursuance and write off of debts and credit balances and make a recommendation to the Management Committee for approval.

The Housing Services Manager is responsible for implementation of this policy and for developing detailed procedures and guidance for staff.

The Management Committee is responsible for authorising legal action and its subsequent enforcement, where this could result in a tenancy being terminated. The Chairperson will utilise the delegated authority should the timing of meetings make a full Management Committee inappropriate. This action will be presented for homologation at the next meeting.

### **4.0 PRINCIPLES**

#### **4.1 Reasonableness**

Horizon, as a landlord, has a role in ensuring that all tenants and former tenants are held accountable for money payable to the Association. As our principal income is rent and we have adopted a standard tenancy/occupancy agreement, there are no special contractual circumstances that prevents the Association pursuing outstanding debt.

Within the social rented sector generally, there is a higher risk to associations because many tenants are reliant on benefits and are more likely to have low incomes.

#### **4.2 Working with Others**

In many cases, Horizon will only be able to tackle the recovery of debt in partnership with other agencies .

The Association is committed to forming relationships and inter-agency approaches to debt recovery where appropriate. This is aimed at preventing debts arising in the first place and subsequently to secure repayment. In all instances this is to safeguard the financial viability of the organisation and protect the interests of its tenants. The Association will therefore involve and work with partner agencies, such as Citizen Advice Bureaux, Local Authorities, Welfare Rights Agencies, Solicitors and Debt Recovery Agents, in the management and recovery of outstanding debt.

Where it is likely that court action for repossession will be successful, the relevant housing officer will contact the appropriate local authority homeless unit within the local authority. This will prompt intervention by the local authority to try and avoid an eviction. If there are young children who are not qualifying occupiers, we will contact the social work authority to assist the family. All other household members are also notified should they be determined as a qualifying occupier.

### **4.3 Working with Tenants**

The Association recognises that tenant involvement is crucial to preventing and tackling debt effectively. This in turn helps to develop agreed standards on key areas of service delivery. The Association will consult with tenants on future review and seek their opinion on debt recovery action.

## **5.0 OPERATIONAL FRAMEWORK**

The framework below will be supported by detailed procedures.

### **5.1 Prevention**

Prevention is better than cure and we aim to make the Association's policies and procedures as clear and consistent as possible. Staff will ensure that tenants are aware of their responsibility for the payment of their rent and any other relevant costs for which they are accountable.

### **5.2 The Association will:**

- Explain the importance of paying rent when due, prior to sign up of a new tenancy and throughout the tenancy;
- Monitor rent and debt payments regularly, thereby allowing early intervention when a debt arises;
- Initiate early intervention, aiming for personal contact to avoid events spiralling out of control;
- Offer assistance and advice and wherever possible, refer the tenant to a benefits or debt advisory service;
- Maximise uptake of relevant benefits;
- Facilitate different methods of payment and appropriate timescales;
- Benchmark with other providers, particularly on the main source of income, i.e. rent arrears and consider the affordability of our rents;
- Empower operational staff to make decisions;
- Wherever practicable, avoid eviction for debt recovery;
- Continually monitor and report our performance.

The arrears management process will include the use of a standard letter together with special features in newsletter(s) and rent statements, to remind tenants of their responsibilities and the potential outcomes should they choose not to repay an outstanding debt.

### **5.3 Involving, Supporting and Assisting Vulnerable Tenants and Financial Hardship**

When we are aware of tenants experiencing debt problems they will be encouraged to play a full part in agreeing action to deal with the issue. Their views will be taken into account in reaching decisions on courses of action. The outcome will be dependent on the particular circumstances.

Tenants will be encouraged to seek appropriate advice and assistance. This may be through Welfare Rights Assistance, Solicitors, Housing Benefit Departments and/or Support Providers.

Housing Officers are likely to be aware of the tenant's financial circumstances and capacity to understand the situation. If it is necessary to seek support for the tenant, due to their lack of understanding, an approach will be made to the local authority for the opportunity for specialist advice.

Throughout the process of debt recovery, staff will be flexible to changes in circumstances and will work towards a resolution of the debt. Assessments will be carried out on the tenant's financial capacity and a suitable repayment arrangement will be made. This arrangement will be monitored and will remain flexible, to accommodate changes in circumstances.

### **5.4 Legal Action**

There may be occasions when there is no other option but to take legal action to recover outstanding debt.

Legal remedies available to the Association include the recovery of the property, the debt, or a conjoined action for both repossession of the property and recovery of the debt. The Association will not normally instigate a bankruptcy action but instead seek repayment through the debt recovery scheme.

Appendix 1 lists the actions available to the Association.

## **5.5 Information and Advice**

The Association will ensure that its debt recovery policy and procedures are publicised and communicated effectively to staff, tenants and partners. This will include use of the tenant newsletter and website.

## **5.6 Record Keeping**

The Association will keep an accurate record of action taken to investigate and resolve the problem. The Finance Department will monitor all actions where a debt recovery action is implemented either via Solicitor or Sheriff Officer. Records may be required as background information, should a case proceed to court.

## **6.0 PERFORMANCE MONITORING**

6.1 The Association is committed to monitoring and measuring the success of this policy and its accompanying operational procedures.

6.2 Staff will monitor the progress of cases, trends and the effectiveness of the policy on a monthly basis. Where legal action has been instigated, this will be reported to the Housing Services Committee.

6.3 The Housing Services Committee will set targets and receive quarterly reports monitoring the performance of:

- Arrears against Business Plan targets;
- Comparison against other landlords;
- The number of tenants with arrears and a comparison with the previous quarter;
- Recommendations for write offs;
- Number of evictions resulting from debt recovery actions

## **7.0 INTERNAL MANAGEMENT OF DEBT**

7.1 The Association will follow the detailed procedures set out within the Housing Services Procedures Manual when pursuing repayment of outstanding debt.

## **8.0 PROVISION FOR BAD DEBT**

8.1 The Association recognises that it is not always possible to recover outstanding debt and will therefore make an allowance for such instances within its Annual Budget.

**8.2** The Housing Services Sub Committee will present the case for the write-off of debt to Management Committee following due consideration.

**8.3** Debts under £25 will be presented cumulatively for write off.

**9.0 RECOMMENDATION**

**9.1** Management Committee approve the policy for three years.

**Policy by  
Chris Thomson  
Housing Services Manager**

Legal Action and Remedies for the pursuit of debt

### **1.0 IN ADVANCE OF LEGAL ACTIONS**

- 1.1** Legal action will be initiated whenever the Association believes that there are no other reasonable courses of action. In considering whether to pursue legal action the Association will first consider the cost benefit and will give due consideration to the likelihood of recovery.
- 1.2** There are a number of forms of legal actions available to the Association and the appropriate selection will be aimed at recovering the debt. There are however occasions that the debtor does not acknowledge the debt or participate in any communication. Should this arise legal action may be implemented earlier in the process.

### **2.0 USE OF DEBT RECOVERY AGENTS AND SOLICITORS**

- 2.1** The Association will work with both solicitors and debt recovery agents in the recovery of debt. Advice will be sought from the agents as to the appropriateness of our actions. This may include instructing traces on the whereabouts of the debtor and a credit check on the likelihood of recovery.

### **3.0 TYPE OF LEGAL ACTION**

#### **3.1 Repossession of the Property**

This is the ultimate action and will be instructed should the debt continue to rise with no prospect or likelihood that the tenant will make any arrangement to pay. We will also instruct such action when the tenant fails to communicate with staff.

There are occasions when the association will take a conjoined action for recovery and include the non payment of rent with such an action to avoid repeated visits to the court.

#### **3.2 Notice of Proceedings**

This action is a warning to the tenant that legal action be instigated should the situation not be resolved or at least an arrangement made to repay the debt.

#### **3.3 Small Claim**

A small claim action is aimed at recovering debt less than £750. This action will be used where the debtor fails to make or keep to

an arrangement. Should the debtor be a tenant we would instruct such action if the tenant is conducting all other aspects of their tenancy without concern and there is a likelihood of payment if successful.

The Association would also include this action for other debts where the Housing Scotland Act could not be utilised, e.g a company or a former tenant.

### **3.4 Summary Cause Action**

This is a procedure in the Sheriff Court by which all action against tenants are brought where an arrear is £1500 or less. The Association would normally instruct such action with a recovery for repossession. When an arrear is at this stage the likelihood is that the tenant has failed to communicate or make an arrangement to pay.

On occasions where the Association is likely to recover the debt without any further concern that a debt will accrue this would be taken as a single action.

Should the debt be more than £1500 the Association will restrict the sum so that the action can proceed.

## **4.0 OTHER RECOVERY ACTION**

4.1 The Association will utilise other methods to recover debt that will include

- Credit card payments
- Direct deduction from debtor (only applicable when debtor is in receipt of benefits)
- Salary arrestment (if employment details obtained)
- Bank arrestment (if bank details obtained)
- Debt arrangement scheme
- Bankruptcy (more likely for a business debt)

## **5.0 ENFORCEMENT OF DECREE**

5.1 There are occasions when we are successful in our court action however enforcing the decree can be more problematic. When a successful action is taken on a current tenant this is easier and a sheriff officer will be instructed to implement. Any decision by the tenant not to adhere to the court action will be answerable to the court and may lead to further prosecution.

Problem arise with former tenants and a trace will be instructed in

advance of the decision to instigate legal action unless the association is instructing a conjoined action. A recommendation will be made to management committee on such cases.

When awarded decree the Association also requests payment of expenses. Whilst these do not cover the complete expense (normally restricted) this debt is recoverable with the decree and the association will seek its recovery.