

Policy & Procedure on Managing Current Tenancy Rent Arrears

INTRODUCTION

1.0 This Policy covers all regular payments due to CHS Group for general needs and shared ownership homes – mainly rent and service charges.

2.0 CHS's policy is to avoid any customers' arrears reaching a serious level; and to create a payment "culture" which emphasises prompt payment. Arrears are a serious loss of income for CHS. Those who do not pay affect other customers as loss of rental income means less money is received to provide housing services. CHS uses various ways to stress the importance of paying rent and to encourage contact such as newsletters and the website. We use Information Technology and administration processes to maximise information for customers and work effectively, for example, we process payments promptly, produce easy to read rent statements, and submit on-line court applications. From October 2016 we have the on-line customer portal, 'myCHS' for customers to check their balance and get in touch with CHS.

3.0 A clear arrears procedure combines swift action with flexibility to negotiate with customers to take account of individual circumstances. Letters and visits to customers are combined in a way that emphasises the seriousness and formality of action taken but also the ability to reach sympathetic agreements about repayment of arrears, and to develop trust between officers and customers, emphasising the principle of working together to solve a problem. Less formal contact includes visiting, phoning and e-mailing customers and sending text messages. Customers must be made aware at all stages that the ultimate sanction is eviction, but this is the last resort when all other action fails.

4.0 An important part of CHS's support for households with genuine financial difficulties is our in-house money and debt advice service, and signposting to external advice agencies. We train our Housing and Customer Service teams in identifying the signs that such advice is needed.

5.0 Action taken for income recovery should take account of personal profiling information, such as disability or support needs, as well as other individual circumstances including ill-health, unemployment, young children or domestic abuse.

6.0 The first procedure covers general needs customers. The second procedure applies to shared ownership leaseholders. The third procedure refers to arrears applicable to a customer who has arrears but wishes to move due to the implications of Welfare Reform.

PROCEDURE – GENERAL NEEDS TENANCIES

1.0 Pre-tenancy detail

- During the pre-letting process the Housing Officer (HO) will assess the financial circumstances of the prospective new tenant and complete a pre-tenancy financial checklist to be forwarded to the Money Matters team. The MM team will offer to visit the new tenant as soon as possible at the start of the tenancy to offer support with money management, benefits applications and energy efficiency advice. If they urgently need advice to claim grants e.g. to furnish the home, this support will commence before the tenancy begins.
- Before a customer signs their Tenancy Agreement their Housing Officer will discuss with them the different ways of paying rent and the action which can be taken if they do not pay on time. The customer will be required to bring their first rent payment to the sign-up meeting, sufficient to cover the rent until a regular payment is set up, such as direct debit or swipecard. The sign-up will be postponed if they do not do this.

- The HO will discuss with the customer whether they are likely to qualify for housing benefit (HB) or Universal Credit (UC) and confirm any service charges that will not be eligible for benefit. If it seems certain that full HB / UC will be granted, the HO should confirm exactly how the customer would pay any non-eligible charge (e.g. water, heating).
- If a customer will be subject to the provisions of welfare reform (e.g. the Local Housing Allowance cap for under-35's from April 2018) it should be made clear to them their responsibilities to pay any shortfall applicable. The sign-up checklist will include this advice and is signed by the customer.
- Advice should be given about how to claim HB / UC and the supporting documentation needed, stressing that forms must be submitted immediately. The HO should give the customer a housing benefit form and check that the customer has completed it at, or before, the sign-up; if necessary helping to complete the claim form at the sign up. Again, the sign-up will be postponed if the HO is not satisfied that the customer is ready to submit the claim before the tenancy begins. We will also strongly advise payment of HB / UC direct to CHS. The customer should take/send the form to the appropriate benefits office and is advised to ask for a receipt. Wherever possible CHS will take part in the Verification Framework in partnership with local authorities, to help claims to be processed quickly.
- The Officer contacts the Local Authority one week after the tenancy begins to check (if the customer has given authority) that the form has been received by the Housing Benefit office and is being processed. If the customer refuses to give authority for this disclosure the HO may begin the arrears stages below if there is not other evidence that the claim has been submitted.
- The Tenancy Healthcheck visit carried out one month after the tenancy begins includes discussion to reinforce the payment expectations, check for any difficulties with paying rent, encourage contact with us, and promote our services on Money Matters.

2.0 Stage 1

- The HO reviews all rent arrears on their patch on a weekly basis. This is done using the QL database to check previous actions, agreements and communication. The attached flowchart (at 15.0) summarises the different action stages.
- QL generates standard letters that can be sent at each of these stages, and these letters can also be edited with extra detail. When a customer first misses a payment, they should be contacted by letter or contacted informally within two weeks of the payment being due. If not satisfied with the outcome of informal contact the HO must send the Stage 1 letter promptly before moving to Stage 2.
- If the account has gone into arrears because a claim for HB / UC is being processed, the Officer should confirm with the customer and with the Housing Benefit office / DWP whether they will qualify for HB / UC and that the claim is not delayed by any lack of information. HB claims are paid four weeks in arrears by Local Authorities (Universal Credit monthly) thereby creating technical arrears. Confirmation should be obtained from the appropriate Benefits office and if this is the only reason for such arrears, it is acceptable.
- In some cases it may be reasonable to ask the HB department to make an interim payment if they have all of the information from the customer that they need. In cases of Universal Credit we may advise the customer to request an interim payment from the DWP, and if necessary advocate on their behalf.

3.0 Stage 2

- If no response or payment is made within a further two weeks after the initial contact then the customer should be written to *and* visited (or phoned if no answer when visiting), as part of the court pre-action protocol. It may be necessary to make a visit or phone call

outside normal office hours. This second contact must make it clear to the customer that if they do not clear or reduce the arrears, the next step is to serve them with a Notice of Seeking Possession.

- If the customer is unable to clear the arrears, an agreement should be made with them to reduce the debt by instalments. A letter is sent to confirm the agreement which will then be shown on future rent statements and the 'myCHS' customer portal. The agreement should be realistic and based on a discussion about the customer's financial position, to include income and outgoings, using a Financial Statement.
- A full discussion should take place about possible welfare benefit entitlement and local money advice services such as Citizens Advice Bureaux. The Officer should offer to make contact with the appropriate advice/support agencies, using their work phone if necessary, and exploring the possibility of additional support if needed.
- The HO will also consider whether the customer could benefit from advice from CHS's Money matters Adviser (MMA) and if so discuss the case with the MMA. The MMA may be asked to make direct contact with the customer for advice.
- The HO should discuss at this stage the possibility of employers' deduction from wages if appropriate. For those on Income Support, Employment and Support Allowance or Job Seekers' Allowance direct deductions can be requested once the rent arrears are above four weeks' rent and this course should be pursued. If the customer has changed to Universal Credit the HO should pursue direct payment of the Housing Element as soon as the threshold is reached.
- The customer should be made aware that by not paying they risk losing their home. They also risk losing their opportunity to obtain credit, and to bid successfully on Homelink. A standard letter is sent via QL whether or not the visit takes place.
- If a visit is attempted but access could not be gained, the HO will leave calling cards and this must be recorded on QL, along with relevant date/time and other relevant details. Officers should visit when they think it is more likely the customer will be at home e.g. after they finish work.

4.0 Stage 3 – Notice of Seeking Possession

- If the rent arrears reach six weeks' full rent and no agreement has been made (or if an agreement is later breached), the HO should serve a Notice of Seeking Possession. For Assured Tenancies Grounds 10 & 11, the discretionary grounds, should be used. CHS does not use the mandatory Ground 8. For Secure tenancies, different Grounds (1-7/12-16) for possession will apply. The only exception would be where there is a known delay in dealing with a housing benefit claim and the customer will be fully entitled to benefit, and has provided all the relevant information.
- A personal visit should be made (out-of-hours if necessary) to serve the Notice personally (or post by hand if no reply), at which the officer should again attempt to make an affordable agreement with the customer. The minimum period before court proceedings can begin is four full rent weeks after serving the Notice and the customer must make progress in reducing the arrears during this period. The customer should be given clear information in writing about what action will be taken if rent arrears increase further, and that they will be liable for court costs if an Order is made. A second copy of the Notice should be served on any joint customer in a separately addressed envelope.

5.0 Stage 4 – Warning of Court Action

- If the arrears do not reduce at an agreed rate in the two weeks following service of the Notice, the customer should be written to and personal contact made to explain that CHS is considering applying for a Possession hearing.
- The customer should be given a seven-day deadline by which to clear the account, or make a significant payment in order to avoid court action and to make an agreement about

future payments. The HO should also explain that costs would probably be awarded against them to cover the court fee. If such payment is not made after the deadline, the HO should agree with the Housing Manager that court action will be taken.

6.0 Stage 5 - Application to Court

- Application to Court should not be made until four full rent weeks have elapsed from the service of the Notice of Seeking Possession.
- The HO will prepare the PCOL application to apply for a court hearing and the Housing Manager will authorise it on QL, setting out all information required for the Particulars of Claim. The HO will write to the customer confirming that the court proceedings have begun and that they will receive a Summons from the court.
- It should be stressed that the customer can avoid eviction if they make a payment agreement prior to the court hearing and stick to it until the hearing, and that CHS seeks to help the customer to avoid eviction. The tone of the letter is firm and clear but approachable.
- The customer should be urged to meet with the HO in order to make an agreement and every effort must be made to visit the customer at this stage. It should be stressed that advice can be given by CHS or other agencies about welfare benefits and budgeting, and that regularity of payment is the key to clearing arrears rather than making unaffordable agreements. The HO should again attempt to steer the customer towards such agencies, offering to arrange appointments and so on.
- The customer should be urged to attend the court hearing in order that account can be taken of their circumstances and a suspended possession order requested if they have made an agreement to pay. The court hearing will only be withdrawn if the balance is paid in full. However the costs of the court application may be rechargeable to the defendant.

7.0 Stage 6 - Court Hearing

- When the date of possession hearing is confirmed, the HO writes to the customer to advise them of the action CHS intends to take and make arrangements to visit them. In any case a rent statement must be sent to the customer at least 10 days in advance of the court hearing to comply with the pre-court action protocol.
- Generally, a Suspended Possession Order (SPO) should be requested as long as the customer is co-operating and has begun to pay in accordance with an agreement.
- Immediate possession should be sought where no contact has been achieved with the customer despite reasonable attempts by letter, phone and visits, or where the customer is making no payments at all and can offer no reasonable explanation.
- The HO will attend the court hearing to give evidence for CHS.
- The HO will keep a record of all legal action on QL.
- Before leaving the court, the HO will speak to the customer and agree how they will maintain contact and liaise about the payments or payment difficulties.

8.0 Stage 7 - Post-Court

- Where a SPO has been granted by the Court, the HO will confirm the Court's decision in writing stressing the importance of maintaining the required payments.
- The case will be monitored closely in line with when payments are due. If the customer fails to keep up with the agreement at any time they should be written to and visited urgently to stress that fixing a date for possession is the next step and that while CHS wishes to avoid this, it must act if no progress has been made.
- If the customer reduces their regular payments they will be in breach of the court order. Therefore any requests to reduce payments should be discussed carefully. A renegotiation of their payments will be based on a change in circumstances such as benefits or earnings confirmed using a financial statement or by an independent money advisor. In these

circumstances, the customer may apply to the Court for a variation to the order. Where the HO deems that a variation is appropriate they should advise the customer on how to make such an application and we shall support such applications. If the variation is not agreed by the court the customer should be warned that CHS is entitled to expect the customer to abide by the terms of the original order.

9.0 Stage 8 - Breach of Terms of Court Order

- If the terms of a Suspended Order are not kept to, and the customer does not satisfactorily make other arrangements, CHS writes to advise it will apply for an eviction warrant if the Order is not complied with. The letter gives the customer 7 days to dispute the rent arrears and stresses that they can avoid eviction if they deal with the rent arrears.
- After 14 days CHS will apply to the court for permission to the court to issue an eviction warrant, (using Form N244 and showing evidence of the breach of the order) unless the customer has paid the balance in full or begun to keep to an agreement that reduces the arrears at an acceptable rate.
- If the customer keeps to an agreement for a period and then breaches it, CHS will revert to the plan to apply for an eviction date, and notify the customer in writing.
- If not already in regular contact with the customer, the HO will keep trying to see them to help them find a way to avoid possession.
- A decision to enforce the possession order by court bailiff's warrant must be taken by CHS's Operations Director. The HO will prepare a full written report to be authorised by the Housing Manager and then the Director. This is the last resort and should only be considered after all other options have been explored.

10.0 Stage 10 - Suspension of Warrant of Possession

- A warrant can be suspended on application to the county court by the customer, and if the court sees it as reasonable. Occasionally CHS can also agree to suspend the warrant without a court hearing. This must be on the basis that the arrears have been cleared or very substantially paid, or there has been a change in the customer's circumstances which makes it more likely that an agreement will be maintained; and they have begun to make such payments. Such an agreement is less likely where the customer has repeatedly reached this stage in the past.

11.0 Stage 11 – Eviction

- If an eviction is to occur, then the Court Bailiff will advise the customer of the date and time. The HO will issue the "End of Tenancy" leaflet, and advise the customer of their rights after they leave CHS's property, and check through personal contact whether the customer is expecting to relinquish their tenancy prior to the eviction date.
- The HO is expected to attend the eviction, and must decide whether the property is likely to be vacant, or if other support is necessary on the day for entry to the property, removal/storage of goods, or in some cases police presence. Once possession has been obtained the HO must ensure that the property is secure and that the locks are changed, and take an inventory of all goods left in the property, also taking photographs of the same.
- If eviction does occur, the customer's outstanding debt should be pursued as a former customer. The HO must issue the standard Former Tenant Arrears letter prior to eviction, advising the customer that they remain responsible for payment of the outstanding debt; and obtain a forwarding address wherever possible.

12.0 Arrears Monitoring

- The HO and Housing Manager will meet at least monthly to review the level of arrears on the patch, individual rent arrears cases and to agree action to be taken and any reasons for deviating from the procedure. The HO must also keep records on QL of all action taken, including notes of any home visits, agreements and discussions with the customer, advice given and reasons for deviating from the procedure. Rent statements should generally be sent to customers with any letters.

13.0 In summary, the principles of CHS's action on rent arrears are as follows:

- a payment 'culture' which begins before a customer is signed up and is reinforced at healthcheck visits
- swift action beginning while arrears are low, using the QL system
- weekly reviews by Housing Officers of arrears on their patch
- monthly reviews of arrears actions between Housing Officers and a Housing Manager
- maintaining accurate rent account information for officers and customers
- supportive advice being offered to customers on welfare benefits, budgeting and other agencies who can help, including the use of CHS's own Money Matters Service
- good liaison with local authorities regarding housing benefit
- clear information being given to customers about action taken by CHS if rent arrears occur
- clear records of all action and contact with the customer
- combining letters with visits, phone calls, e-mails, text messages and being accessible to customers in line with the pre-action protocol
- clear letters to customers with the Housing Officer's name which encourage personal contact
- an emphasis on eviction as a last resort and on negotiating reasonable payment agreements with customers, backed by support in seeking money management advice
- eviction as a last resort if necessary

14.0 GENERAL NEEDS RENT ARREARS PROCEDURE FLOWCHART

Arrears Level	Stage	Action
2 weeks	1	Initial letter/visit/contact
4 weeks	2	Visit and letter explaining Notice of Seeking Possession is next stage. Out of hours if necessary
6 weeks	3	Serve Notice of Seeking Possession by hand
8 weeks	4	Letter and visit giving warning of application for court hearing
10 weeks	5	Application for court hearing, visit / letter
	6	Court hearing
	7	Visit and letter confirming result of hearing
	8	Written warning of Eviction Warrant and continuing personal contact
	9	Eviction warrant

SHARED OWNERSHIP RENT ARREARS

Leaseholders pay a monthly rent and service charge and are asked to pay by Direct Debit. Housing Officers monitor accounts monthly using the QL database system. As with General Needs rent arrears, a combination of personal contact and letters is used to make it clear that payments must be made while also offering advice. Officers should try to find out the reasons for a leaseholder falling into arrears, offer appropriate advice and agree realistic repayments. The consequences of arrears are very severe for leaseholders as they risk losing both their home and any equity in it. CHS also advises any leaseholder struggling with their mortgage payments to speak to their lender promptly rather than allowing mortgage arrears to build.

If CHS is not prompt about taking action on leaseholders' arrears, the mortgage lender may take possession proceedings and invoke the 'mortgagee in possession' clause contained in the lease. This would oblige CHS to allow the lender to buy the freehold or headlease, having staircased up to 100%, and the home would be lost from our stock. In such circumstances we would not recover the rent lost and would be liable for losses incurred by the lender.

Action stages for leaseholders

Stage 1

- When one month's payment is missed, standard Letter 1 sent asking for payment and encouraging contact. Attempt personal contact if no payment / reply. Check that no monies are still due from the solicitor after completion of purchase.

Stage 2

- The account is monitored after a further month's rent is due. If arrears not paid in full or agreement made to reduce over time, a second letter should be sent plus attempts to make personal contact. At this stage it is explained that if arrears continue or are not paid at an agreed rate, CHS will ask the mortgage lender to pay the balance. The letter also explains that CHS would be obliged to notify the lender of any legal action. Personal contact should include clear advice to seek financial / debt advice, especially if there are also mortgage arrears. We encourage the customer to make a repayment agreement to clear arrears in regular stages if necessary.

Stage 3

- After a further month's rent is due if there is not satisfactory payment or agreement CHS writes to the leaseholder's mortgage lender asking that they pay the balance to avoid possession proceedings. Every effort is made to contact the leaseholder personally to discuss their position and intentions, and a letter is sent to them to confirm that their lender has been approached.

Stage 4

- If the lender declines to pay the balance, CHS will continue to make personal contact with the leaseholder. If the rent arrears are not paid or no satisfactory agreement is made and kept to, CHS must consider possession proceedings. Although a long lease, the procedure to seek a possession order is the same as for Assured tenancies under the 1996 Housing Act. The first stage would be to serve a Notice of Seeking Possession, and to continue to try to negotiate full payment of the balance either in full or over time. The leaseholder should be warned that if CHS obtains possession in this way, the lease will be terminated and the leaseholder and lender will lose any interest in the property, even if the market value exceeds the balance owed in rent and mortgage outstanding.

Arrears accrued due to the Welfare Reform Act

The Housing Manager may exercise discretion where arrears are being accrued due to the under-occupation provisions of the Welfare Reform Act, and where the arrears will reduce if a customer moves to a smaller property.

At all times the rent arrears procedure must be followed in all cases, and the correct escalation processes taken.

Where a request to move to smaller accommodation is received, the Housing Manager may determine whether to allow the customer with arrears to move to smaller accommodation and transfer across the arrears. This decision will be made on a case by case basis and subject to the arrears history of the customer.

- If the arrears are under 6 weeks – the Housing Manager will approve
- If the arrears are over 6 weeks – the Head of Housing Management will approve.

If a valid court order is in existence, no approval may be given without consent of the Head of Housing, as a move to another property will invalidate the court order.

If approval is given a clause would be inserted in the new tenancy, confirming that the customer is responsible for arrears outstanding on the former tenancy and setting out repayment terms for reducing the arrears at an acceptable and affordable rate.