



RENT ARREARS POLICY

1 Introduction

1.1 CHISEL' relies on tenants paying their rents for virtually all of its income. The association needs to ensure that all our tenants pay their rent in full and on time, in accordance with their tenancy agreements. We aim to collect all rent due to us. This policy sets out how CHISEL deals with tenants in rent arrears.

1.2 Every tenant is responsible for the payment of their rent, even if this is covered by housing benefit. It is the tenant's responsibility to communicate with the housing benefit service and provide it with accurate and up-to-date information. However, CHISEL will provide support and assistance where necessary and if a tenant requests it.

1.3 CHISEL will do everything it can to help tenants with financial difficulties maintain their rent payments but persistent failure to pay the rent will eventually lead to a tenant losing their home.

2 Payment of Rent

2.1 All CHISEL's rents are payable weekly in advance. Tenants who prefer to pay four weekly or calendar monthly may do so but should still pay in advance. Before 2011 CHISEL used to offer a concession to tenants who paid their rent on a 4 weekly or calendar monthly basis that allowed them to pay in a part advance/part arrears pattern. The housing manager has discretion to agree to continue existing payment patterns of longstanding tenants provided that the tenant's account never goes more than two weeks in arrears.

2.2 We provide a range of different payment methods to make it easy for tenants to pay their rent. At the present time these methods include: bank direct debit, standing order, cheque or bankers order, via the Allpay system, by phone by debit card, and housing benefit direct.

2.3 We encourage tenants on housing benefit to agree with the local authority that their benefit can be paid direct to CHISEL. We require new tenants and ask existing tenants in receipt of housing benefit to sign a consent form allowing us to contact their local housing benefit department to discuss their applications as needs arise.

2.4 Where a tenant is on housing benefit and the benefit is paid in arrears by the local authority, CHISEL will take account of this in the implementation of this policy including with regard to incentives to pay rent and thresholds for taking arrears action.

2.5 We send a quarterly rent statement to every tenant, showing rent due, rent received and the final credit or arrears balance. We will send tenants additional statements on request.

3 Incentives to Pay Rent

3.1 Tenants whose rent account has been clear for at least four weeks at the time of the draw will be entered in to a cash prize draw (currently £150) twice a year.

3.2 We will prioritise tenants who have clear rent accounts above those with rent arrears for non essential planned replacement programmes in our stock replacement programme such as bathroom and kitchen replacements. Tenants who have rent accounts that have been more than six weeks in arrears for a period of more than a month within the last 12 months will be excluded from non essential replacement programmes unless, in the opinion of the director, there are good reasons why this should not be the case (e.g. acknowledged benefit problems or where it is clear that a tenant is making a special effort to pay off arrears ahead of a CHISEL or court required repayment schedule). We will inform tenants with arrears who are liable to be excluded from improvement programmes that this is the case when forward planning our replacement programmes. Where replacement works are essential we may limit the choice of fitments and fittings offered to tenants in arrears.

3.3 Other than in exceptional circumstances (e.g. domestic violence, racial harassment), no tenant with rent arrears can be offered a transfer under CHISEL's Transfer Policy.

4 Preventing Rent Arrears

4.1 We explain to both new and existing tenants the need for regular and prompt rent payments and the need for them to keep us and housing benefit departments (where appropriate) informed at the earliest possible stage of any difficulties they might have in paying their rent. We will assist tenants in claiming housing benefit and provide advice and support on claiming other benefits. If any tenant needs specialist financial assistance or debt counselling advice we will try and advise him/her of other agencies that can offer suitable help.

4.2 We give tenants a minimum of four weeks written notice of any change in the amount of rent due. We advise tenants on housing benefit that it is their responsibility to notify their local housing benefit department of any change in their rent. Arrears arising from a failure to pay any increase will be treated like any other arrears.

4.3 In cases of temporary hardship we encourage tenants to pay some rent rather than none at all.

4.4 We aim to contact any tenant with rent arrears whose rent or arrears payment has not been paid as soon as possible after it is due.

5 Failure to Pay Rent

5.1 We will contact tenants who miss payments by phone, electronically or by letter as early as is possible and appropriate in the light of the tenant's payment pattern and history. In particular we will monitor the rent payments of new tenants and contact them as soon as it is clear that a payment has been missed to encourage them to establish a regular payment routine.

5.2 Where a tenant falls three weeks behind with their rent (or three times the tenant's weekly contribution if housing benefit covers only part of the tenant's rent and service charge), excluding housing benefit due, CHISEL will send an Arrears Reminder requesting that the tenant should either clear the rent arrears within seven days or contact the housing manager or rents officer within seven days to explain why they are unable to pay. The reminder will also advise the tenant that except in exceptional circumstances

- CHISEL always issues a Notice of Seeking Possession for rent arrears of five weeks or more or 5 times the tenant's contribution to the rent charge if the tenant is on partial housing benefit and housing benefit covers only part of the tenant's rent and service charge.
- CHISEL always issues a Notice of Seeking Possession if we send out three arrears reminders within a six months period and the arrears are not cleared within seven days following the third reminder; we classify these as persistent arrears.

5.3 The housing manager has discretion to delay the sending of an Arrears Reminder and/or the issuing of a Notice of Seeking Possession if s/he believes there are exceptional circumstances that would make this action inappropriate e.g. in cases of severe illness or bereavement, where there are accepted housing benefit problems which the tenant is making every effort to resolve and/or where the tenant has clearly shown that s/he is co-operating with us to clear the arrears.

5.4 Where a tenant is on housing benefit being paid in arrears, we will not send an Arrears Reminder unless the benefit payment is two weeks late from the normal date of payment.

5.5 Where a tenant is experiencing financial difficulties and is unable to clear the rent arrears immediately, we will agree a timetable with him/her for repaying the arrears in instalments. For tenants not in receipt of housing benefit, we will agree a weekly or monthly payment in addition to the weekly rent due that will ensure the arrears are cleared within a maximum 18 month period. The housing manager has discretion to agree a longer repayment period in exceptional circumstances. For tenants solely reliant on benefits we will accept a minimum repayment amount equal to the current rent arrears deduction allowed under benefit rules. In the absence of agreement CHISEL will serve a NOSP.

5.6 Whenever possible, the rent officer or housing manager will seek to make personal contact by phone or home visit with any tenant who is four weeks in arrears with his/her rent. CHISEL recognises that recovery of rent arrears is unlikely to be achieved without personal contact with the tenant. If the tenant in arrears does not co-operate in meeting CHISEL staff we will serve a NOSP.

5.7 Where CHISEL is notified of a housing benefit overpayment, we will repay the money to the local authority and deduct it from the tenant's rent account, where we are legally obliged to do so. Any resulting arrears will be dealt with in accordance with this policy.

6 Notice of Seeking Possession

- 6.1 We will not start legal proceedings against any tenant who can demonstrate that s/he:
- has a reasonable expectation of substantial eligibility for housing benefit and
 - has submitted a claim accompanied by the necessary documentation

provided always that the tenant has paid and continues to pay any portion of the rent for which they are personally liable.

6.2 Where a tenant is five weeks or more in rent arrears, or is in persistent arrears (see above) over a six months period and has received three Arrears Reminders, CHISEL will serve the tenant with a Notice of Seeking Possession (NOSP). This is the first stage in the legal process to regain possession of the home. The NOSP will advise the tenant of the earliest date on which court proceedings can begin. This will normally be 4 weeks after the date on which the NOSP is served.

6.3 Where a tenant is on Income Support, the housing manager will decide whether to apply to the Benefits Agency for Arrears Direct when arrears are 8 weeks or more. Arrears Direct is automatically deducted from the benefit and sent direct to CHISEL. We will also require tenants on housing benefit to switch to housing benefit direct, where this is not already in operation.

6.4 Following the service of a NOSP, the housing manager has discretion to stop the court action if, before the date of the court hearing, the tenant either pays off the rent arrears in full or enters into and demonstrates that they will keep to an agreement with us to pay off the arrears by instalments. The housing manager subsequently has discretion to vary the terms of any agreement made with a tenant if the tenant can demonstrate that his/her financial circumstances have changed.

6.5 Where a tenant has a history of persistent arrears, we reserve the right to continue with court action in order to set an agreement in place for regular payment in the future. We also aim to recover our legal costs. This is to avoid a situation where a tenant repeatedly pays off their arrears immediately before the case goes to court. In such cases, CHISEL is still liable for legal costs unless the court makes an award against the tenant (see 7.7 below). We will agree to adjourn the case if the tenant enters an agreement to repay the costs and keeps to that agreement.

6.6 A NOSP remains valid for one year unless the rent arrears are repaid in full before the year is up. A new NOSP will be issued at the end of the year if the tenant is still five weeks or more in arrears. Any tenant with a valid NOSP is considered to be in breach of the terms of their tenancy.

7 Court Action

7.1 We will apply to the County Court for a Possession Order if a tenant under NOSP fails to either clear the arrears within 4 weeks of the NOSP being served or to make an appropriate repayment agreement with CHISEL.

7.2 If a tenant fails to keep to an agreement s/he has made with us to clear the arrears, we will automatically apply to the court for a Possession Order. No second chance will be given.

7.3 Liability for the costs of taking court action is decided by the court and will be passed on to the tenant where appropriate and added to the amount owing in rent arrears. The association will ask for these costs to be included in the court order.

7.4 Possession will be sought under Section 8 of the Housing Act 1988, as amended, normally using Grounds 10 (failure to pay rent) or Ground 11 (persistent arrears). Details of the various Grounds for Possession can be found at the end of the CHISEL Assured Tenancy Agreement.

7.5 We will normally seek possession using Ground 8 (8 weeks arrears) if the association is taking court action against a tenant who has arrears of more than 8 weeks rent and the association has previously taken court action against this tenant and the tenant has failed to keep to the terms of the previous court order. Ground 8 differs to Grounds 10 and 11 in that the court *must* grant outright possession of the home. The use of Ground 8 is subject to approval by CHISEL's director.

7.6 When the court has set a date for hearing the possession case, both the court and the housing manager will write to the tenant, at least ten days in advance, advising him/her of the date of the hearing and informing him/her that s/he should attend. We will enclose an up to date rent statement and whatever information we possess regarding any housing benefit claim

7.7 If a tenant pays the arrears in full before the date of the hearing we will adjourn court action except in cases of persistent arrears, (see 6.5 above).

7.8 An appearance in court can also be avoided if, before the hearing, the tenant contacts the association and comes to a satisfactory agreement with us to pay the arrears on a regular basis and at an acceptable rate. In this case we will apply to the court for an Adjournment on Terms. This sets up a legally binding Order, which sets out the terms of repayment.

7.9 If a tenant has failed to make and keep to an agreement with us or is in breach of a previous Court Order we will seek an Outright Possession Order.

7.10 Unless the arrears are over 8 weeks and CHISEL has sought possession using Ground 8 the courts may not necessarily agree to give possession. The court may refuse to award an Outright Possession Order and may, instead, grant a Suspended or Postponed Order if it feels the tenant should be given a chance to pay off the arrears.

7.11 The housing manager has discretion to apply to the court for a Money Judgement (where the court determines that the tenant must make certain payments which will still be payable even if the tenant leaves the property or is evicted) or an Attachment of Earnings Order (where money is deducted directly from a tenant's wages) in those cases where s/he feels that this would be an appropriate way to successfully collect arrears.

7.12 The housing manager has discretion to use the small claims track procedure of the court to recover smaller amounts of arrears (less than 8 weeks rent). This procedure is especially likely to be used when a tenant has a history of persistent small arrears but possession action is considered to be disproportionate or otherwise inappropriate.

8 After the Court Hearing

8.1 Following the hearing, the court will send a copy of the order to CHISEL and to the tenant. CHISEL will then write to the tenant to provide official notification of the decision of the court. The letter will advise the tenant of the total amount owing to CHISEL, including court costs. Where an order for regular payment of arrears has been made, we will advise the tenant that they can apply to the court to change the terms of the order if their circumstances change and they can no longer afford what has been ordered. This is known as a Variation of Terms to a Court Order. CHISEL will provide advice and assistance to any tenant who wishes to change their court order, although it is the tenant's responsibility to apply to the court. The court usually charges a fee for varying the terms of a court order (except where the applicant is on housing benefit), which must be paid with the application.

8.2 If it comes to our attention that the tenant's financial circumstances have improved, so that they could afford to clear the arrears more rapidly, we may apply to the courts to increase the regular repayment sum. We will always try to agree the new amount with the tenant before the case comes to court, which means we can seek a Consensual Order thus reducing our court costs. If the tenant disputes the increase we are proposing but the court agrees it, we will always ask the court to award costs against the tenant and these will be added to the amount owing.

8.3 All Possession Orders lapse as soon as the arrears and any court costs awarded are repaid in full. Any credit on the account after paying the arrears will automatically transfer to cover the court costs.

9 Eviction and Eviction Appeals Panel

9.1 CHISEL views eviction as a last resort and prefers, wherever possible, to reach an agreement for regular payment of rent arrears. Even where we are legally entitled to evict, we will not do so if the tenant makes a reasonable agreement to repay arrears and then keeps to that agreement. However, prolonged or repeated failure to keep to an agreement will always lead to eviction other than in exceptional circumstances.

9.2 Where an Outright Possession Order has been granted, the housing manager or rents officer will submit an eviction request to CHISEL's director. A copy of the eviction request will also be sent to the tenant. The eviction request will include the following information:

- The tenant's payment history from the start of the tenancy.
- Details of contact with the tenant (to include letters, phone calls and visits) regarding the arrears.
- Details of any agreements made with the tenant, both voluntary and through the courts, for repayment of arrears.
- Details of any exceptional circumstances (for example, personal hardship, medical problems and so on) affecting the tenant's ability to pay.

9.3 The director will only refuse eviction of a tenant with an Outright Possession Order in exceptional circumstances. An Outright Possession Order normally allows 28 days to elapse before we can apply for a bailiff's warrant to evict.

9.4 Where a Suspended Possession Order has been granted but the tenant fails to keep to the terms of the order we do not have to go back to the court for permission to evict unless the Order is more than six years old. Where a Postponed Possession Order has been granted but the tenant fails to keep to the terms of the Order we do have to go back to the court for the court to grant a date for possession. The director has discretion not to approve eviction if s/he is satisfied that there are exceptional circumstances and the tenant comes back into line with the Order. However, if the tenant subsequently breaches the Order again, CHISEL will not offer a second opportunity and an eviction will be approved unless the tenant clears the arrears and costs in full.

9.5 After the director has approved the eviction, the tenant is entitled to make a written appeal to CHISEL's Eviction Appeals Panel. The tenant must let CHISEL know that s/he wishes to appeal within fourteen days of being told of the proposed eviction.

9.6 The Eviction Appeals Panel is a three person panel made up of CHISEL Board members. The Chair of the Board will decide the membership of the Panel taking care to avoid conflicts of interest.

9.7 CHISEL will notify the tenant of their appeal date, which will normally be between two and four weeks after the tenant has let us know s/he wishes to appeal.

9.8 The tenant's formal appeal must be made in writing and must arrive at the CHISEL office at least three working days before the date of the appeal panel hearing. The tenant is encouraged to attend the appeal and may bring with him/her a representative of his/her choice, who may speak on his/her behalf. Not more than one representative will be allowed to attend other than in exceptional circumstances and with the special agreement of the Panel.

9.9 The Panel will make its decision at the end of the appeal. The tenant will not be allowed to be present while their case is discussed and the decision made but may remain in the building to hear the outcome.

9.10 The decision of the Eviction Appeals Panel is final and no further appeal will be allowed.

9.11 When a final decision to evict has been taken, we will immediately apply for a Bailiff's Warrant to enforce the eviction. It normally takes about 6 weeks from the date of application until the date of eviction. We will not instruct bailiffs until eviction has been agreed by the director and, if the tenant decides to appeal, we will not enforce an eviction warrant until the appeals procedure has been completed.

9.12 The tenant can apply to the court for a Stay of Execution if s/he feels that there are good reasons why s/he should not be evicted. The court will then decide whether the Possession Order can be enforced.

9.13 If a tenant pays off their rent arrears plus costs in full at any point before the date of eviction, then the eviction will not proceed.

9.14 If the eviction goes ahead, CHISEL will attend with the bailiff and a locksmith, who will change the locks on the doors. The tenant will be given 7 days within which to remove any belongings left on the premises. Belongings can only be recovered by arrangement with the CHISEL office and the former tenant must be accompanied by a member of staff when removing them.

9.15 Possession Orders which have been executed are reported anonymously to CHISEL's Board of Management.

10 Former Tenants' Arrears

10.1 CHISEL will continue to seek repayment of rent arrears from tenants who have either left or been evicted from their homes. Rent is payable on a property until the period of notice has expired and the keys are returned to CHISEL, unless we have given consent to a different arrangement.

10.2 As soon as we find out that a tenant is leaving, we will write requesting that any outstanding rent arrears be cleared before the tenant moves out. We normally expect payment in full but the housing manager has discretion to agree repayment in instalments where s/he accepts that the tenant cannot afford a single payment.

10.3 We will seek to trace former tenants through a tracing agency if their forwarding address is not known unless the debt is very small.

10.4 If we hold a forwarding address we will write to the tenant offering a final chance to make arrangements for repayment of the debt, with a deadline for doing so.

10.5 If the tenant fails to meet this deadline, we will usually pass the debt to a debt collection agency. Ultimately, this could lead to a court summons and credit blacklisting. In addition to the rent arrears, the tenant will also have to meet any additional costs incurred in pursuing the debt.

10.6 If a tenant's account is in credit when they move out, we will repay the credit balance to the tenant at the end of the tenancy.

11 Deceased Tenants

Where a tenant or former tenant owing rent arrears to the association dies, CHISEL will seek repayment of the debt from the tenant's estate through the executor of that estate, other than in exceptional circumstances. Arrears will accumulate until CHISEL regains possession of the home.

12 Writing Off Arrears

12.1 CHISEL will consider writing off former tenant arrears at the end of each financial year where a former tenant cannot be traced, dies leaving no estate, is declared bankrupt or the debt is otherwise considered to be unrecoverable. CHISEL's director has discretion to write off debts of less than £700. CHISEL's Board of Management must agree write offs of debts that exceed £700.

12.2 Even where a debt has been written off, CHISEL will still seek its repayment if the whereabouts of the former tenant subsequently becomes known.

13 Policy Review

CHISEL aims to review all its policies on a regular basis. This policy will be due for review in 2016 or earlier if the environment in which CHISEL operates changes significantly.

Policy agreed by CHISEL Board of Management 8th September 2011