



Arrears Policy

1 Introduction and scope

- 1.1. CHISEL relies on the income it receives from rents to fund its activities and services such as carrying out repairs and improvements. It is therefore extremely important that we minimise the loss of rental income in order to safeguard CHISEL's financial position whilst simultaneously being mindful of our role as a social landlord. CHISEL aims to maximise income, minimise debt and act in a way that is supportive of sustaining tenancies. This policy separates debt prevention from debt collection.
- 1.2. Welfare reform and the introduction of Universal Credit pose a serious risk to our main source of income and thus to services and overall financial viability. In most cases, the 'Housing Costs Element' of Universal Credit – which replaces Housing Benefit - will be paid directly to the 'lead' claimant in the household. Benefit Payments will be made on a monthly basis in arrears but the resident will be responsible for paying the full rent in advance as well as any additional contributions off arrears. Whilst this simplifies arrears management in one sense, it will change the way we manage arrears and requires a far more proactive approach to both debt prevention and collection.
- 1.3. This policy is the framework for a consistent, sensitive, reasonable and yet robust approach to collecting income and debt. As a social landlord, we must ensure that we balance our role in debt prevention and debt collection.

2 Policy Objectives

- 2.1 This policy aims to:
 - ❖ ensure that we maximise the number of payment methods to make it as easy as possible for residents to pay the rent.
 - ❖ ensure that prospective residents are aware of, and understand, the rent and other charges and their responsibilities before they accept an offer of housing.
 - ❖ ensure that rent arrears are identified as soon as they occur and are then managed in a firm, consistent, fair, pro-active manner, with the focus on supporting residents to sustain their tenancies.
 - ❖ ensure that residents are provided with prompt, accurate and easily understood information at all times; work with residents to minimise any financial exclusion, rent arrears and any other debts, and to make referrals to relevant advice and support agencies as appropriate.
 - ❖ ensure that we communicate with residents in a manner that is positive and solution oriented at all times.
 - ❖ encourage residents to contact us regarding any change in circumstances and/or if residents experience problems that may result in missed payments.
 - ❖ work together with residents to resolve the problem and encourage residents to discuss issues with us rather than avoid them.
 - ❖ tailor our approach to individual residents and be sensitive when dealing with residents with a range of different needs.

- ❖ work with other agencies to ensure that residents understand their obligations with regards to their occupancy agreement and receive appropriate advice and support.

3 Policy Principles

- 3.1 Our resident-focused approach to income collection is on the basis that residents take responsibility for paying their rent and other charges. Rent is a priority debt and it is the resident's responsibility to pay the rent in full and in advance, even if the resident claims benefits for some or all of their rent. CHISEL believes that it is inherently unfair to those residents who do meet their obligations in terms of rent not to take a firm but fair approach to arrears management with those who do not.
- 3.2 At the same time CHISEL recognises that residents may experience periods of financial difficulties and struggle to pay their rent. As such, CHISEL will offer support and advice for residents who have genuine difficulties in paying rent or other debts owed to the Association.
- 3.3 CHISEL will take a proactive approach to managing arrears and priority is given to early preventative action do not build up unnecessary or permanent debt. Prevention is the driver for our approach and eviction is always the last resort. CHISEL will make every effort to make an affordable and realistic agreement with the residents to repay any outstanding arrears.
- 3.4 However, we take arrears very seriously, even when it is just a small amount, and we will take swift and decisive action against those who refuse to engage with us or ignore advice and support. Where an agreement cannot be reached or where agreements are not maintained or are broken, legal action will be taken and all available legal remedies will be used to recoup any debt.
- 3.5 CHISEL is obliged to follow the provisions of the Pre-Action Protocol on rent arrears, which forms part of the Civil Procedure rules of the Courts. Throughout the arrears process all steps taken will be clearly documented and CHISEL will demonstrate we they have taken every possible action to support the residents to remedy the breach and reach an agreement to repay arrears to prevent eviction.
- 3.6 CHISEL will ensure it is operating within the law at all times and may seek external legal advice at any point in this process.

4 Debt Prevention

- 4.1 CHISEL recognises that the key to debt management is debt prevention and we believe the culture of payment is set during the early contact with prospective residents at initial assessment stage and then at sign up. Prior to commencement of a new tenancy we will explain and advise new residents of the importance in meeting their rent payment obligations and that prompt and regular rent payments will avoid the build up of any debts which could later result in evictions.
- 4.1.1 At sign up we will:
- undertake a financial assessment
 - explain to the residents how the current rent and charges are made up
 - explain the methods of payment available
 - encourage automated payment methods

- ensure payments methods are established from the start of tenancy wherever possible
- take a minimum of a weeks rent payment in advance
- support the residents to complete and submit any necessary benefit forms.

4.2 Payment of Rent

CHISEL aims to make the payment of rent as easy as possible. We will offer a variety of methods of payment which take account of residents' needs and preferences and we will encourage residents to pay by automated payment methods wherever possible.

We will provide rent statements on request to ensure residents always know the state of their account and can check payments made have been correctly applied to their account. All residents have access to their account via MyTenancy.

4.3 Payments In Advance

Rent payments to CHISEL are required to be paid in advance. We will establish payment plans with all residents that are designed to bring accounts into credit, to maximise cash flow and minimise the risk of arrears.

4.4 How we can help

We understand that times can be difficult and this makes it more important than ever that payment of rent is prioritised by residents as once rent arrears start to build they can become difficult to repay. We are willing to help residents who are in arrears and are genuinely trying to resolve the problem.

4.5 Vulnerability

We have an obligation to house people who are in greatest housing need and these are often some of the most vulnerable people in society. There is no standard definition of what is meant by the term 'vulnerable' as some residents can be vulnerable over the long term whilst others are 'vulnerable' for a short time because of a traumatic life or family crisis. CHISEL recognises the vulnerability of some of its residents and will always seek to ensure that we understand the individual circumstances of each resident and ensure support is appropriate to the individual's needs.

Where we are aware that a resident has difficulty in understanding the seriousness of the situation we will do our best to ensure that communication is in an appropriate format and that residents are encouraged to have an advocate with them when we meet with them.

We will work in partnership with residents, local authorities, voluntary organisations and other support providers to offer extra support and guidance where we know a resident may be vulnerable. We can signpost to agencies that offer support that is tailored to resident's individual circumstances.

However, whilst we accept that vulnerable residents may need additional support, we still expect rent to be paid on time and arrears repaid quickly. Where arrears action is necessary it needs to be commensurate with the level of debt, taking into account historical factors and personal circumstances; we will consider whether their disability or vulnerability is a factor in their non-payment of rent.

5 Debt Collection

5.1 CHISEL wishes to sustain tenancies by acting early to deal with arrears and so we will contact residents as soon as their rent account falls into arrears. We expect that residents will work with us to sort out the debt and put things right at this early stage. Early contact will be made using all available communication methods such as telephone, visits, text, email and letter. The preference is always to speak to the residents directly rather than relying on letters as we understand that when residents are in debt letters may go unread. However where warning letters are sent at any stage in the process, we will ensure that they are accessible and in an appropriate communication format. We will always encourage residents to get independent debt advice in any arrears letters.

5.2 Welfare Benefits

The Association recognises that many of its residents are dependent upon benefit to pay their rent; we know that benefit payment problems can lead to arrears and so it is important that residents talk to us straight away if this is the case.

It is entirely the responsibility of the resident to ensure their rent is paid in advance, irrespective of benefits.

When starting court proceedings we will take into account arrears that may be due to outstanding benefits where a resident can evidence that they have a genuine chance of getting benefits and has provided all the information required.

5.3 Joint Tenants

Joint tenants are 'jointly and severally' responsible for paying the full rent and for any rent arrears. This means that if one joint tenant does not pay, the other is fully liable. This will still be the case where universal credit is only paid to one tenant, or where one joint tenant has left the property.

5.4 Arrangements

CHISEL will only make agreements to pay that are realistic. However we do expect that residents will repay any debt owed as soon as possible, normally within 18 months. Arrangements will seek to include a lump sum payment plus a weekly amount on top of the current rent due.

When making arrangements we will take other outgoings into account but will emphasise the importance of ensuring that the home is paid for and the possibility of re-scheduling other debts. We will make every effort to find support for residents to budget effectively and manage any debts. However we will make it clear to residents that rent is a priority debt and that any arrangement must be adhered to.

All actions will be thoroughly documented and all agreements will be confirmed in writing with a signed copy of any agreement placed on the residents file. Agreements will be written in an accessible format.

6 Legal Action

6.1 When all attempts have failed to reduce residents rent arrears, we will take firm enforcement action. All available legal remedies to collect rent owed will be used including direct deductions from benefits & attachment of earnings where deemed appropriate. Possession and eviction action will be used only as a last resort, when all other reasonable steps have been tried and/or taken, whilst ensuring that the

Pre-Action Protocol has been adhered to. Legal action is a serious step and will result in the resident having to pay for court costs. If bailiffs are involved, their costs will have to be paid by the resident as well.

6.2 The Pre-Action Protocol for Rent Arrears (Appendix A) was provided by the Civil Justice Council and was introduced in October 2006. The Protocol applies to claims for rent arrears only and the courts will look to ensure that the Pre-Action Protocol for Rent Arrears has been followed before making an appropriate Court Order.

6.3 Early contact between residents and CHISEL is essential to minimise debt levels and to instil a payment culture. Residents should not be served with a Notice until CHISEL has either established contact or has made a number of attempts to do so.

6.4 **Serving a Notice**

There are a variety of legal tools we can use to help us get the money we are owed. We will normally serve the relevant notice for arrears where a resident is 28 calendar days/ 4 weeks or more in rent arrears.

We will normally serve a notice where the resident has not responded to our efforts to make contact, or has broken their agreement to repay the arrears. Where a Notice has been served and an arrangement made, we will re-serve a Notice before its expiry if there are still more than 4 weeks arrears on the account; this is to safeguard CHISEL's position if the arrangement breaks down in future.

We will ensure that use of any legal notice is proportionate and served in accordance with best practice.

6.5 **Grounds for Possession**

The legal grounds and the legislation under which we can seek possession differ for each type of tenancy. We will use a Notice Requiring Possession (NRP) or Section 21 to end a fixed term (assured shorthold) tenancy at the end of the term where there are significant ongoing rent arrears and where there is no genuine agreement or intention to repay. This may also apply to low level or static debt, depending on the circumstances.

6.5.1 **Notice of Seeking Possession (NOSP): assured, starter and fixed term tenancies**

There are three grounds for possession for rent arrears: 8,10 and 11 (Appendix B). Their use will depend on the specific circumstances of the case.

For assured tenancies CHISEL will normally seek possession under 10 and 11. Ground 11 will only be used in conjunction with Ground 10, whereas Ground 10 may be used alone. Ground 8 will only be used in conjunction with ground 10 & 11.

6.6 We may also use the mandatory Ground 8 if the residents owes at least two months' rent (if the tenancy is on a monthly basis) or eight weeks rent (if it is on a weekly basis) when we gave notice seeking possession and also if this is owed at the date of the court hearing. Ground 8 is a mandatory ground which will be used where the arrears are significant and where all attempts to recover the debt have been exhausted, or where there are other significant factors that suggest the residents will not pay. Ground 8 should be used in conjunction with Grounds 10 and 11, never alone on the basis that Ground 8 can be dropped at the hearing date if the residents has made a substantial payment and/or if the arrears have been reduced to under 8 weeks.

6.7 We will ensure that use of Ground 8 is proportionate and before any application to court is made using Ground 8, the case will be reviewed and signed off by the Managing Director to ensure CHISEL has done everything possible to sustain the tenancy and prevent eviction.

6.8 For other debts or arrears which are not rent related, we will use Ground 12, where 'any obligation of the tenancy (other than one related to the payment of rent) has been broken or not performed'.

6.9 Court Action

We will apply to court for a possession order once the relevant notice period has expired where:

- the resident has refused to get in contact with us
- the resident has not come to an agreement with us
- the resident has come to an agreement with us but has not kept to it
- arrears are not reducing.

6.9.1 We will consider the resident's circumstances before applying to court, including:

- ability to repay the debt
- their benefit situation
- their payment history
- their vulnerability

6.10 Adjournments

We may adjourn a case on terms if we can make and maintain an agreement with the resident before any court hearing.

6.11 Court orders

The Court may make one of the following rulings:

- A Possession Order and money judgement for the debt.
- A Possession Order (suspended on terms) and money judgement for the debt.
- A Money Judgement only (when possession is not appropriate).
- An Adjournment of Proceedings (in exceptional circumstances).
- A withdrawal of proceedings (only when the resident has cleared the arrears and court fee incurred).

We will advise the resident in writing of the implications of any Order. Following a Suspended Possession Order we will explain what steps we will take upon non-compliance.

6.12 We will usually seek either a Suspended Possession Order (SPO) or an Outright Possession Order (OPO) from the court. A money judgement will always be sought with any possession order, in addition to an order for costs incurred. CHISEL may use other legal remedies such as:

- Attachment of Earnings
- Third Party Debt Order (Garnishee Order)

6.13 Distraint/ Debt Collection Agencies

We will not use distraint or seizure of goods. However we will use debt collection agencies for former tenants arrears.

6.14 Bankruptcy

Where residents have been declared bankrupt or have obtained a Debt Relief Order, they may have included rent arrears within their list of debts. If so we are bound by the Insolvency Act 1986. For bankrupt residents, Section 285(3) of this Act states that recovering arrears included or “provable in the bankruptcy” is prohibited. For residents who have included arrears in a Debt Relief Order, Section 251G states that any relevant creditor “has no remedy in respect of the debt”. In such cases we may be obliged to write-off any relevant debt.

However we do not necessarily have to write off rent arrears where bankruptcy has occurred and we will take legal advice as necessary. We may deal with repayment of rent arrears in line with this policy, and follow standard procedures for recovery action where arrangements are not kept to or the current rent is not paid. The main feature of a DRO is a ban (called a moratorium) which prevents creditors pursuing debts for a period of 12 months. Residents with a DRO are still liable to pay rent, and rent arrears incurred after the DRO has been made are not covered by the moratorium. We will deal with repayment of these arrears as per this policy.

6.15 Eviction

We will consider applying for eviction after all other options for tackling arrears have been exhausted. We will only carry out an eviction where a county court bailiff is present and we will work with the bailiff to ensure that it is done as sensitively as possible. We will send written notification of eviction to the local authority’s homelessness team, if the tenant is felt to be in priority need.

7 Other Principles

7.1 Loss of Rights for Residents in Arrears

CHISEL may remove certain rights for residents in arrears:

- Residents in arrears will not usually be accepted on to the transfer list. Residents will usually be suspended from the transfer list if they fall into arrears. Any exceptions to this must be agreed by the Managing Director.
- Residents in arrears may not be able to carry out tenancy changes such as mutual exchanges and creating joint or sole tenancies until the arrears are cleared.
- Any compensation payments/rent adjustments will be offset against their arrears.
- Planned improvements i.e. new kitchens/bathrooms may be postponed.

7.2 Documentation

To ensure successful legal action it is vital all contact and actions are documented on the Association’s computerised housing management system. All documents, including emails will be accurate, objective and kept on file.

7.3 Prioritising Debts

We recognise that residents in rent arrears may also owe other debts to CHISEL, such as court costs, rechargeable repairs and other sundry debts. Where multiple debts exist we prioritise debts in the following order:

- a) Current rent and service charge arrears
- b) Current recharges
- c) Former tenant arrears
- d) Court costs, former tenant recharges and miscellaneous debts

7.4 Compensation/rent refunds

Where a resident has been awarded compensation or rent refund, we will offset any such any payment against any outstanding debts, including the current month's rent. Rent is payable in advance so any compensation payment or rent refund will reflect this and bring the rent account in line with the tenancy agreement.

7.5 Confidentiality

CHISEL will treat as confidential all information on the personal circumstances of a resident. A resident's arrears position, forwarding address and other details will not be made known or implied to any other person, with the exception of any debt collection agency acting on our behalf, unless we are authorised by the residents, or required by law.

8 Procedure

8.1 See separate document

9 Monitoring

9.1 CHISEL's Board will monitor arrears performance and evictions regularly to ensure the effectiveness of this policy.

9.2 We will regularly report to the Board of CHISEL on arrears performance against annual targets.

9.3 We will review our rent arrears policy and procedures every three years in order to continuously improve our services and performance.

10 Equality and Diversity

10.1 CHISEL respects and values the differences of our residents, partners and staff. We will treat all residents fairly and with respect.

10.2 For residents for whom their first language is not English, we will provide any necessary support they need throughout the arrears process, this could include translating information or providing an interpreter if needed. We will never rely on a minor to translate in the case of arrears.

10.3 We will communicate with residents in the way that suits them wherever possible. We will provide tenancy information that is easy to understand and we will communicate in an appropriate way. We will use a combination of letters, visits, text, email and telephone contact to ensure that residents are able to understand the issues and the potential consequences of non-payment of rent.

10.4 We will monitor evictions to identify any equality and diversity issues

11 Consultation and Publicising the Policy

11.1 This policy will be consulted on via the website and in the residents' magazine.

11.2 This policy will be publicised to residents through:

- The Residents Handbook
- Resident leaflets
- The website
- Residents meetings

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