



## Current Tenant Income Recovery Policy

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| <b>Policy Name:</b>             | <b>Current Tenant Income Recovery Policy</b> |
| <b>Status:</b>                  | Draft  |
| <b>Approved by:</b>             | WCHG Board                                   |
| <b>Drafted by:</b>              | Stephen Jackson - Head of Income             |
| <b>Date approved:</b>           |  |
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| <b>E&amp;D impact assessed:</b> | N/A  |
| <b>Customer consultation:</b>   | <b>CXC Committee Jan 2024</b>                |
| <b>Next Review Date:</b>        |  |

## **1. Statement & Background**

Wythenshawe Community Housing Group (**the Group**) aims to collect the maximum amount of rental income and service charges in an efficient and effective manner.

The Group's emphasis is geared to prevention of arrears and tenancy sustainment in all cases but enforcement action will be taken to minimise the customer's debt and to maximise the Group's income.

The Group will adopt a firm but fair approach to income recovery and be proactive in taking preventative actions to avoid the accrual of high arrears and will respond in a sensitive manner tailoring the service appropriate to the customer's circumstances.

The Group will provide support to Tenants through the Financial Inclusion and Living Well teams to assist them with sustaining their tenancy's. tenants will also have access to WCHG's 'Living Well' fund that provides financial support for Tenants where there is a need identified – e.g. access to fuel vouchers.

## **2. Scope and Application**

This policy applies to all rented properties owned or managed by the Group.

## **3. Prevention of Rent Arrears**

The Group recognises that prevention is the most effective and appropriate method of rent account management. The Group will take the following preventative actions:

### **3.1 Pre-tenancy sign up – the Group will:**

- Where deemed necessary, based on a risk-based process using several factors. Carry out a financial health check, to ensure that the property being offered is affordable now and in the future.
- Request that tenants pay one week's rent in advance at the start of their tenancy where a weekly payment method has been agreed.
- Where the tenant intends to pay fortnightly or monthly, to make an advance payment to prevent the account showing in arrears. If the tenant is unable to do this an appropriate payment plan will be arranged so the tenant can accrue the required credit.
- Actively promote direct debit as the first choice for the payment method.
- Provide clear information about the amount of rent and service charges payable.
- Provide advice about rent payment methods, the Group's policy on managing rent arrears and the implications of not making the required payments.
- Identify tenants who may be vulnerable and require additional support and signpost to the relevant specialist advice and assistance.
- Offer advice and assistance on the completion of housing benefit applications including verification to expedite the assessment and payment of the benefits.
- Support those tenants in receipt of Universal Credit (UC) in advising the DWP of their rent liability and confirming that the housing element paid to them is correct.
- Where appropriate, assist the tenant in notifying Universal Credit, of their rent liability or a change that would affect the housing element paid to the tenant. If a vulnerability has been identified, that meets the criteria stipulated by the Department of Work and Pensions (DWP), then an application for an alternative payment arrangement (APA) will be made.

- Introduce the Income Recovery Officer if available, or provide their contact information and advise tenants they must contact the Income Recovery Team if they need to discuss rent payment or fall into financial difficulties

### 3.2 After the start of the tenancy, the Group will:

- Identify those most likely to be at risk of falling into arrears such as those with irregular employment patterns or those who make rent payments in cash.
- Contact the tenant in the first week following commencement to follow up on outstanding benefit claims and to ensure the tenant has made arrangements for payment.
- Promptly identify tenants who fall into arrears and take immediate action to recover the arrears.
- Continue to actively promote direct debit as the first choice for the payment method.

## 4. Information, Advice & Assistance

The Group recognises that in the current difficult financial climate tenants may need advice and support to enable them to effectively manage their rent account and sustain their tenancy. Therefore, the following measures will be put in place to assist tenants in maintaining a clear rent account's:

- The Group will ensure that there is a variety of payment methods available for tenants to allow them to make payments in the most convenient way and these methods will be publicised.
- Advice and assistance on paying rent, claiming benefits and general advice/support from the Financial Inclusion Team will be available, at the earliest opportunity to all tenants to ensure that income is maximised and to facilitate the payment of rent due.
- The Group will make available information for tenants on how to pay their rent and what they should do if they fall into arrears.
- The Group will ensure that regular rent statements are available to all tenants and upon request, to enable tenants to manage their rent accounts.
- The Group will promote the use of the WCHG app to allow tenants to manage their rent account. Where a tenant uses the app, they will no longer receive paper copies of their rent statement unless they specifically request to do so.
- The Group will provide relevant publicity to raise awareness of the Group's policy on rent arrears and to encourage tenants to engage with officers to manage any arrears.

## 5. Arrears Recovery

The Group will adopt the following principles in the recovery of current rent arrears:

- All action for the recovery of rent arrears will be prompt and sensitive. Tenants who fall into arrears will be identified quickly and in accordance with agreed procedures and guidelines.
- Where appropriate realistic and affordable payment agreements will be put in place to repay the arrears, which will be confirmed in writing or using the tenant's preferred method of contact and closely monitored.
- Legal action, based on the terms cited within the tenancy agreement and the Grounds set out in the Housing Act 1986 (and any subsequent updates) will be taken

for the recovery of unpaid debts. Action will be taken if the tenant fails to make or breaks any arrangement to pay off arrears based on an affordable agreement or does not engage with the Group.

- Tenants will be advised prior to any and each action that is taken, so that they are fully informed of the process and any implications of action taken.
- Where a tenant has multiple debts to the group, such as former tenant debts or recharges, then the corporate debt recovery policy will be followed and priority go to clearing the current tenant arrears.
- The Group will adhere to the pre-court protocol issue by the Ministry of Justice in respect of the pursuance of rent and arrears prior to taking court action. Eviction will be pursued where a tenant fails to comply with Possession Orders and fails to respond to attempts to provide support.
- Prior to the commencement of all legal action: possession proceedings and warrant applications, officers will complete an Equality Act, Public Sector Equality Duty and Proportionality Review.
- As part of the legal process the Court will be asked to award costs incurred in the pursuance of legal proceedings against the tenant.
- Eviction will be pursued where a tenant fails to comply with a Suspended Possession Orders and fails to respond to attempts to provide support.
- Immediate Possession orders (if obtained) will be enforced as soon as the order permits.

## 6. Grounds for Possession:

The following provides details of the relevant Grounds in the Housing Act 1988 regarding the recovery of rent arrears that WCHG will use:

**Ground 8-** This ground can only be used when the tenant is at least 8 weeks in arrears, the landlord has served notice that they want possession and the tenant is still 8 weeks in arrears at the date of the possession hearing. If this is the case, this ground is mandatory and the court must grant possession if this ground is proven. Any notice using Ground 8 must also include Grounds 10 and 11 as well.

Every effort will be made to work with the tenant up to the hearing date would still continue and should the tenant make payment against the arrears and the level reduced to below 8 weeks. If this were the case then the Group would consider using the alternative grounds i.e. 10 &11 as part of the Court hearing.

Ground 8 would only be used for those tenancies where it is clear the tenant is unwilling to engage with the Group, or has had previous orders that have ceased to be enforceable due to length of time, the judgement debt has been satisfied and the original order specifies this or the tenant has had the previous order discharged or rescinded by the Court.

**Ground 10** in the Housing Act relates to non-payment of rent. It states that 'Some rent lawfully due from the tenant'. The rent must be unpaid on the date on which the proceedings for possession are begun, i.e. the tenant is in rent arrears and that have been in arrears from the date on which the Notice of Seeking Possession (the first stage in the legal process) was served.

Ground 10 is not a mandatory Ground, therefore the District Judge hearing the case has discretion to award a Suspended Possession Order. This allows the tenant to remain in their home, on condition that they pay the current rent plus a specified

amount off the arrears. If this order is broken then WCHG would consider enforcing the order, which would then lead to a warrant for eviction being requested.

As with **every** arrears case, WCHG officers will make every effort to engage with the tenant regarding their arrears, making offers of support through our Living Well and financial inclusion teams. They will also check if there are any vulnerabilities that could affect the tenant's ability to pay prior to taking further legal action.

**Ground 11** – This ground in the Housing Act relates to persistent non-payment of rent. Where appropriate, and where the tenancy agreement allows, the Group will consider serving a Notice of Seeking Possession citing both Ground 10 and 11 in relation to outstanding arrears. Consideration will be given to the use of Ground 11 specifically when the tenant has previously had arrears written off as part of a debt relief order or bankruptcy.

## 7. Housing Benefit and Technical arrears

- 7.1 Approximately 25% of rental income is from Housing Benefit (HB) and is payable four weeks in arrears. The Group encourages direct payment of HB from the local authority to the Group. Arrears arising from an on-going claim for HB or the timing of HB payments, will be regarded as "technical arrears" but normal arrears recovery action will be continued until any outstanding claim has been processed.
- 7.2 The Group will maintain regular communication and good working relationships with the Revenues and Benefits Units in Manchester and other Local Authorities where WCHG have stock, in order to minimise the accumulation of rent arrears during the processing of HB claims. There are SLA's with each authority and the Income Recovery Team are trained in the validation of documents.

Normal arrears action will be taken in the following circumstances:

- The HB assessment has identified an amount payable by the tenant which is not being received.
- The tenant fails to provide the necessary documentation to substantiate an HB claim despite requests to do so.
- The tenant fails to declare a change in circumstances which will affect their entitlement.
- The HB claim has been cancelled due to failure to submit information as requested.

When a claim is cancelled, or the Group receive notification that a claim is due to end, the tenant will be notified in writing of their obligation to begin making payment.

## 8. Universal Credit

- 8.1 Universal Credit (UC) has been rolled out as part of the Government's welfare reform agenda. It replaces a number of legacy benefits paid to working age households, including Housing Benefit, into a single monthly payment. From their universal credit payment tenants are expected to pay their full rent, and reduce any rent arrears incurred prior to their claim for UC.
- 8.2 Tenants who do not make the rent payment will be subject to the normal arrears recovery process. Where the tenant reaches 8 weeks in arrears, or a vulnerability, that meets the DWP criteria is identified, then an alternative payment arrangement (APA) will be applied for, to have the Housing Element of their Universal Credit paid

direct to the Group. At the same time, a further application will be made for direct payments from the personal element of UC will be made.

- 8.3 Where the payment of housing costs would not cover the full rent payment, the officer managing the account has discretion regarding applying for an APA. They can advise the tenant of the need to pay the full rent due, plus an affordable amount to reduce the arrears, or apply for the APA but advise the tenant of payment need to cover the rent and reduce any arrears outstanding.
- 8.4 Where an APA is refused, or the payment is reduced and the tenant does not make additional payment to cover the rent and any arrears agreement, then the arrears escalation process will be followed.

## **9. Exceptional Circumstances Panel (Previously – Welfare Reform Panel)**

- 9.1 The Group recognises that there may be circumstances, where the tenant is subject to the 'bedroom tax' and this causes the property to become unaffordable. Under the current Manchester Move (choice based letting system) criteria any application for rehousing would be suspended due to current tenant debt.
- 9.2 Officers will work with these tenants, offering support in the most appropriate area e.g. signposting for entry into work, money management advice, support in making applications for additional welfare benefits. Where the Officer determines that all avenues of support have been exhausted and the tenant has been working with the Group to improve their current position a referral to the Exceptional Circumstances Panel can be made. The panel consists of senior officers of the Group and will review each case on an individual basis to determine, based on a summary of the case and a history of actions taken by the officer, to decide if the tenant will be allowed to bid for smaller properties.
- 9.3 Where the tenant has been accepted for a move due to exceptional circumstances, they will be allowed to move with rent arrears. If they do accept alternative accommodation, and have arrears, they will be expected to sign an addendum to their tenancy undertaking to pay the arrears relating to their former tenancy. If they fail to make the agreed payments then the Group can decide to pursue the debt through service of a Notice of Seeking Possession citing Ground 11 of the Housing Act.

## **10. Bankruptcy and Debt Relief Orders**

- 10.1 The law relating to the effect of Debt Relief Orders (DRO's) and bankruptcy is complex and the Group will follow legal guidelines and best practice.
- 10.2 The Group will write arrears off for tenants that are adjudged bankrupt or who obtain a DRO as of the date of the/Bankruptcy/DRO order. Bankruptcy/DRO debt write offs will be approved by the Assistant Director of Finance. Where the arrears are already subject to a Court Order the tenant will be advised of the need to maintain future payments as while the arrears have been discharged the order remains valid and enforceable.
- 10.3 If the Group has already applied for a warrant for the tenant's eviction at the time the bankruptcy/DRO is made then the Group can choose to continue with enforcement

action. The cases of *Sharples v Places for People and Godfrey v A2 Dominion* (2011) established that a suspended possession order remained enforceable even if a DRO had been obtained or tenant became bankrupt.

10.4 Where there is no expectation that the tenant will maintain payments, based on previous length of arrears and missed payments, then any application to suspend the warrant can be resisted citing the cases.

## 11. Breathing Space Arrangements

11.1 From 4 May 2021, the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 came into force. The purpose of the Regulation is to give individuals in debt time to get advice and find appropriate debt solutions to problems they have without having the further pressure of enforcement action or letters pursuing them for that debt during the period.

11.2 There are two types of breathing spaces that have been introduced: a standard breathing space and a mental health crisis breathing space:

**Standard** -A standard breathing space is available to any person with a problem debt. It is only accessible through a debt advice provider authorised by the FCA to offer debt counselling or a local authority authorised to provide debt advice. For the Wythenshawe area this is likely to be either the CAB or Step Change.

The standard breathing space is in force for 60 days, with a midway review between 25-35 days of the breathing space. Any ongoing or new enforcement action and contact should be paused during the period.

An individual can only apply for a standard breathing space once every 12 months and all contact should be via the debt advisor with the creditors. The debt advisor's role is to check for eligibility and appropriateness. It is only be available to those residing in England and Wales, who do not already have some kind of bankruptcy order in place i.e. a debt relief order or IVA. It also should not be granted where the individual would be able to pay off their debts with the help from budgeting or if they have some assets they would be able to sell. As with all new legislation there is a need for case law to establish the thresholds for where these are appropriate.

NB – we understand that if there is a joint tenancy – both parties are able to apply separately for one that affects the whole tenancy.

**Mental Health**-Mental health crisis breathing spaces are for those individuals with a qualifying debt who are being treated for mental health issues. It can be applied for by those nominated as acting for the individual in crisis, and the evidence that the person is in mental health crisis can only be obtained from an "Approved Mental Health Professional". This is a defined term, a medical professional who is approved by the local social services authority to provide that service. Contact with the debt advisor would be via a nominated point of contact. A mental health crisis breathing space will last for so long as the tenant is being treated as is in crisis plus a further 30 days. There

is no limit to how many times an individual can apply for a mental health crisis breathing space.

## **12. Financial Inclusion**

- 12.1 The Group recognises that the effective management of personal finances by its tenants contribute directly to the ability to collect rent payments and is committed to promoting financial inclusion for all its tenants.
- 12.2 The Group also recognise that some of customers may be experiencing financial hardship, excluded from mainstream products or be vulnerable or disadvantaged. Financial Inclusion initiatives, for those experiencing hardship will focus on:
  - Identifying tenants who could benefit from advice regarding their income and expenditure.
  - Promoting an affordable home insurance scheme.
  - Promoting local service providers for reasonably priced furniture and white goods.
  - Supporting tenant's through WCHG's 'Living Well' fund where they need fuel vouchers or access to items such as white goods or furniture.
  - Signposting to local Groups that may be able to support tenants with specific circumstances such as support with purchasing school uniforms.
  - Promoting Real Opportunities/Motiv 8 as a way of reducing dependency on welfare benefits.
- 12.3 The Group will provide a dedicated service to assist tenants in maximising their income and managing their finances more effectively. This service is provided at no cost to the tenant and includes:
  - Providing free and confidential advice on welfare benefits, income maximisation and money management.
  - Providing the service through a range of ways that suit tenants: telephone, face to face or home visit.
  - Helping the tenant maximise their income by applying for all qualifying benefits.
  - Helping to organise money and prioritise debts.
  - Advising on debt prevention.
  - Providing advice on reducing expenditure.
  - Providing practical advice and support around money management that aims to reduce dependency in the future through empowering customers to be able to make effective choices about their own finances.

## **13. Training**

All members of the Income Recovery and Financial Inclusion Teams will be appropriately trained, resourced and supported to enable them to deal effectively with the recovery of rent arrears, income maximisation and all areas of financial inclusion.

## **14. Monitoring Performance**

- 14.1 Targets will be set and monitored in line with the Group's strategic objectives and performance management framework and will be reported monthly through the Corporate Performance Pack.

- 14.2 Operationally, weekly and monthly monitoring will be undertaken and reports produced showing arrears recovery activity and progress towards targets.
- 14.3 The Group will also benchmark performance against other organisations, using sources of information that are most appropriate for this purpose and this will be reported at the Corporate Performance group.

## **15. Statutory and Legislative Framework**

- 15.1 The Group's policy on rent collection and arrears recovery has been written to reflect sector best practice and the latest legislation.
- 15.2 Should changes in government policy, legislation, accounting guidance, the Group's business plan or other relevant factors arise, these will be reported to the Board along with an assessment of their impact and appropriate recommendations as to how to proceed.

## **16. Responsibilities**

The Executive Director of Finance will be responsible for the implementation, application, operation and review of this policy document, subject to the review of the Group's Board(s), with due regard to relevant guidance and legislative requirements.

## **17. Equality and Diversity**

- 17.1 WCHG will ensure that the Current Tenant Income Recovery Policy and procedure is accessible to all customers. WCHG recognises that customers of all races, ages, religions, gender, sexual orientation, literacy levels and disability should be treated equally and fairly. We will make every reasonable effort to ensure that no-one is discriminated against directly or indirectly on the basis of any protected characteristic as defined by the Equality Act 2010. We recognise that some protected groups may be disproportionately impacted and will take additional steps in the application of this policy and make reasonable adjustments to ensure compliance with the Act.
- 17.2 If you require this policy in a different format, translated, large print, easy read, braille, or an audio copy, contact us by phone on: 0300 111 0000 or: 0800 633 5500 or by email: [inclusionanddiversity@wchg.org.uk](mailto:inclusionanddiversity@wchg.org.uk)
- 17.3 ***A screening document for this policy has been completed and reviewed by the Equality Impact Assessment (EIA) Panel. Following this review, a full EIA was not found to necessary.***

## **18. Consultation, Monitoring and Review**

- 18.1 The procedures for arrears recovery are continually monitored, and regular reports on activities and performance will be provided to the Senior Leadership Team and the Group's Board.

18.2 Consultation with customers will take place before any changes to policy are put in place through WCHG's Customer Experience Committee and then Board approval. Unless business needs necessitate, the Policy will be reviewed annually.

## **19. Associated Policies and Documents**

Allocations Policy  
Former Tenant Arrears Policy  
Corporate Debt Policy  
Financial Inclusion Strategy  
Bankruptcy Guidelines  
Data Protection Act/Guidelines  
Income Recovery Procedures  
Living Well Strategy

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