



# **Shared Ownership Income Recovery Policy**

## **2025 - 2027**

<b>Date of approval</b>	<b>January 2025</b>
<b>Responsible director</b>	<b>Simon Morris, Executive Director of Finance</b>
<b>Strategy monitoring body</b>	<b>Customer Experience Committee</b>
<b>Resident input into strategy</b>	<b>Customer Experience Committee</b>
<b>Date for Policy review</b>	<b>January 2027</b>
<b>Linked strategies/policies</b>	<b>WCHG Corporate Plan &amp; Purpose Corporate Debt Recovery Policy Financial Inclusion Strategy Rent Setting Policy Service Charge Policy</b>
<b>Statutory and Legal Framework</b>	<b>Consumer Standards Rent Standard</b>
<b>Version/date</b>	<b>V1: January 2025</b>



## **1. Statement & Background**

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

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

WCHG 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.

## **2. Scope and Application**

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

## **3. Pre- sale checks**

The Group recognises that prevention is the most effective and appropriate method of rent account management. The Group will work with Shared Owners (SO's) and take the following preventative actions:

### **3.1 Presale – the Group will in accordance with the Homes England Capital Funding Guide:**

- Encourage purchasers to buy the maximum share they can afford and sustain. Providers must sell shares flexibly in accordance with the purchaser's specific circumstances
- Use the sustainability calculator and guidance or a methodology of comparable standard to determine the share an applicant can purchase and an applicants' ability to sustain home ownership when accessing shared ownership.
- WCHG will assess the applicant's affordability or signpost the applicant to an Independent Financial / Mortgage Advisor who will be able to complete the Sustainability Calculator using detailed mortgage information (such as the mortgage interest rate and length of the mortgage).
- Where deemed to be needed, carry out a financial health check, to ensure that the property being offered is now affordable and in the future.



- Apply the guidance set by the Homes England regarding what the maximum housing costs should be as a percentage of the total household income.
- Actively promote direct debit as the first choice for the payment method and that all payments should be a minimum of one month in credit.
- Provide clear information about the amount of rent and service charges payable
- Provide advice about payment methods, the Group's policy on managing arrears and the implications of not making the required payments
- Confirm the preferred method of contact should there be any issues regarding the payment to the rent element.

#### **4. Information, Advice & Assistance**

WCHG recognises that both tenants and those with shared ownership properties may need advice and support to enable them to effectively manage their rent account. The following measures will be put in place to assist SO's in maintaining a clear rent accounts:

- The Group will ensure that the maximum variety of payment methods is available for SO's to allow payments to be made in the most convenient way and these methods will be publicised. Emphasis will be placed on Direct Debit as the preferred method of payment.
- 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 SO's to ensure that income is maximised and to facilitate the payment of rent due.
- The Group will make available information for SO's 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 sent to all SO's and are also available upon request, to enable SO's to manage their rent accounts.
- The Group will provide relevant publicity to raise awareness of the Group's policy on rent arrears and to encourage SO's 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:



- The Group will apply the principles set out by the case of *Richardson vs Midland Heart*. The case established that arrears could be dealt with via Schedule 2 of the Housing Act 1988 – i.e. shared ownership should be viewed in the same way as an assured tenancy and so the same grounds for possession apply should arrears be incurred. As such the service of a notice of seeking possession, citing the appropriate grounds is the correct legal notice.
- All action for the recovery of rent arrears will be prompt and sensitive. SO's who fall into arrears will be identified quickly and in accordance with agreed procedures and guidelines.
- As per guidance from the Council of Mortgage Lenders (CML), lenders will be advised of arrears 28 days prior to a NOSP being served.
- Legal action will be taken for the recovery of unpaid debts, if the SO refuses to make or breaks any arrangement to pay or does not engage with the Group.
- SO's 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.
- Lenders will be advised of all legal action taken and the outcome of any Court hearings.
- Although the Pre-Action Protocol for Social Landlords does not apply to SO's the Group will adhere to the principles of the Pre-Action Protocol for Social Landlords in respect of rent arrears claims prior to taking court action.
- Costs incurred in the pursuance of legal proceedings will be recharged to the SO.
- Where appropriate realistic and affordable payment agreements will be put in place to repay the arrears, which will be confirmed in writing and closely monitored.
- Prior to an application for eviction the lender will be advised of our intention to enforce the Court Order and be given opportunity to make payment on behalf of the SO to avoid this action.
- Eviction will be pursued where a SO fails to comply with a suspended Possession Order 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 Housing Act 1988 defines the following Grounds for possession:

### **Ground 8**

*Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing—*

- (a) If rent is payable weekly or fortnightly, at least eight weeks' rent is unpaid;*
- (b) If rent is payable monthly, at least two months' rent is unpaid;*
- (c) If rent is payable quarterly, at least one quarter's rent is more than three months in arrears; and*
- (d) If rent is payable yearly, at least three months' rent is more than three months in arrears;*

*and for the purpose of this ground "rent" means rent lawfully due from the tenant.*

### **Ground 10**

*Some rent lawfully due from the tenant—*

- (a) is unpaid on the date on which the proceedings for possession are begun;*  
*and*
- (b) Except where subsection (1) (b) of section 8 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.*

### **Ground 11**

*Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.*

6.1 Ground 8 can only be used when the SO is at least 2 months in arrears, the landlord has served notice that they want possession and the SO is still 2 months 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 proved (subject to any Human Rights proportionality arguments).

6.2 All measures to work with the SO up to the hearing date will continue. Should the SO make payment against the arrears and the level reduced to below 8 weeks, then the use of non-mandatory grounds i.e. Ground 10 of the Housing Act 1988, is also included in the NOSP. Ground 8 would only be used for those tenancies where it is clear the SO is unwilling to engage with the Group and is making little or no attempt to make the rent payments.

Ground 11 – This ground in the Housing Act 1988 relates to persistent non-payment of rent. Where appropriate, and where the shared ownership 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. Downward Staircasing

7.1 Downward staircasing, whereby WCHG purchases some or all of a shared owner's equity, will not normally be an option, but may be considered in exceptional circumstances. The aim of downward staircasing is to make the combined rent and mortgage payments (or just rent payments if no mortgage is secured against the property) affordable again.

7.2 WCHG retains the discretion to review individual cases should there be a risk of the shared owner getting into real difficulty with making mortgage and rent payments, and downward staircasing may help to prevent a repossession. WCHG will also need to be convinced that any affordability issues are genuine, that other options for the shared owner (such as selling their home) are not possible, and that downward staircasing would help alleviate the affordability problems on a sustainable basis. Any shared owner who WCHG would consider allowing to downward staircase will be required to obtain independent financial advice.



- 7.3 Downward staircasing is only likely to be considered if the shared owner is deemed especially vulnerable and only if downward staircasing may help resolve the situation or if it is clearly in WCHG's business interests to intervene and repurchase the property. WCHG will make no commitment during marketing to repurchasing either all or part of a shared owner's equity and WCHG has no obligation to do so at any point.
- 7.4 Any consideration of downward staircasing will also look at whether funds (including Recycled Capital Grant Fund) are available for WCHG to do so and seek to ensure that the process will not be to the detriment of WCHG's business operations.
- 7.5 Downward staircasing will not be approved if WCHG suspect the shared owner's motivations are about personal financial gain rather than sustaining their ownership or typically if it is felt they could sell their shared ownership home on the open market.
- 7.6 The purchase of equity will be based on current market valuation, based on an independent RICS qualified valuation, and the shared owner will be required to pay for the valuation and their own legal fees, which may, if necessary, be deducted from the payment by WCHG to the shared owner or their mortgage lender.
- 7.7 If downward staircasing occurs, the shared ownership rent will be adjusted proportionally as per the formula in the shared ownership lease, as it would be with upwards staircasing. If full downward staircasing has occurred, meaning the customer no longer owns any equity in the property, then the rent will be based on whatever arrangement and new tenure has been agreed as part of the process.

## **8. Bankruptcy and Debt Relief Order**

The law relating to the effect of Debt Relief Orders and bankruptcy is complex and the Group will follow legal guidelines and best practice.

Generally, however 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 Director of Finance, irrespective of value. 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 for possession remains valid and enforceable.

If a SO becomes bankrupt the property becomes vested with the Official Receiver/Trustee in Bankruptcy, and they are required under the terms of the Insolvency Act to sell the property. If sold, then the Official Receiver/Trustee in Bankruptcy will distribute the funds in line with insolvency practice.

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/the resident became bankrupt.

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 above.

## **9. Financial Inclusion**

The Group recognises that the effective management of personal finances by its SO's contributes directly to the ability to collect rent payments and is committed to promoting financial inclusion for all its residents.

The Group will provide a dedicated service to assist tenants and SO's in maximising their income and managing their finances more effectively. This service is provided at no cost to the resident and includes:

- Providing free and confidential advice on welfare benefits, income maximisation and money management.
- Arranging to visit the tenant/SO at their home or Wythenshawe House.
- Speaking to organisations on behalf of the tenant/SO to negotiate more affordable payment plans.
- Helping the tenant/SO maximise their income by ensuring all qualifying benefits are applied for.



- Where a SO has a change in circumstances, so that they are able to claim Housing Benefit or Universal Credit for the rent element, they will, where appropriate, will be encouraged to have these payments made direct to the Group.
- Signposting to organisations that provide budgeting and debt advice
- 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.

## **10. Training**

All members of both 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.

## **11. Monitoring Performance**

Targets will be set and monitored in line with the Group's strategic objectives and performance management framework and will be reported on a regular basis.

Operationally, weekly and monthly monitoring will be undertaken and reports produced showing arrears recovery activity and progress towards targets.

The Group will also benchmark performance against other organisations, using sources of information that are most appropriate for this purpose.

## **12. Statutory and Legislative Framework**

The Group's policy on shared ownership rent collection and arrears recovery has been written to reflect sector best practice and the latest legislation.

Should changes in government policy, legislation, accounting guidance, the Group's business plan or other relevant factors arise, these will be reported to the relevant Board along with an assessment of their impact and appropriate recommendations as to how to proceed.



### **13. Responsibilities**

The Executive Director of Finance will be responsible for the implementation, application, operation and review of this policy document.

### **14. Equality and Diversity**

WCHG will ensure that the Shared Ownership Income recovery Policy is accessible to all customers. 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. 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)

*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 be necessary.*

### **15. Data Protection**

At WCHG, we take the safeguarding of information very seriously. One of the ways we do this is to adhere to the requirements of UK data protection legislation, including the General Data Protection Regulation (GDPR).

All data that flows into and out of WCHG are assessed to determine the legal basis under which that data is processed, and the results of the assessment are documented. We are satisfied that we will have a legal basis for holding the personal data we hold, and that we will also have a valid legal basis for disclosing this personal data to third parties where this happens.

Privacy notices have been drafted to comply with GDPR requirements (and to reflect the legal basis of processing). Our Group privacy notice is freely available on our



website, and specific notices are made available when collecting personal data. We implement data processor agreements and data sharing agreements where required, and these are reviewed periodically

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

The procedures for arrears recovery are continually monitored and officers are following the policies and procedures when managing cases. Regular reports on activities and performance will be provided to the Customer Experience (CX) Committee and Group Board if required.

Consultation with customers will take place before any changes to Policy are put in place and Board approval sought. Unless business needs necessitate, the Policy will be reviewed every three years.

#### **17. Associated Legislation, Policies and Documents**

- WCHG - Equality and Diversity Policy
- WCHG - Corporate Debt Policy
- WCHG - Financial Inclusion Strategy
- WCHG -Group Data Protection Policy
- WCHG – Rent Setting Policy
- WCHG – Service Charge Policy
- The UK General Data Protection Regulation (UK GDPR) / Data Protection Act 2018
- Housing Act 1988 – Grounds for Possession
- HMCS Pre action Protocol
- Commonhold and Leasehold Reform Act 2002
- Bankruptcy Guidelines