



Atrium Homes

Debt Management Policy

February 2021

Atrium Homes

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1. Introduction

- 1.1. The effective control of rent arrears is a crucial element of financial management for the Company. Tenants' rent and service charge payments are the major source of income to meet our loan commitments, management and repair costs and to make provision for future investment in our housing stock. The prevention, management and recovery of rent arrears are a key element of our overall financial viability.
- 1.2. This policy outlines the way in which Atrium Homes will recover housing related arrears accrued, the rent payment options available, the methods of support for tenants with financial problems and the methods of target setting employed to address continuous improvement.
- 1.3. Atrium Homes will aim to minimise the loss of rental income by prompt, appropriate and effective recovery and control of rent arrears whilst adopting a "caring but firm" approach, emphasising good practice, prevention, early action and continuous monitoring to ensure the maximum collection of income due in the most cost effective manner.
- 1.4. This policy aims to take into account the standards and outcomes set out in the Scottish Social Housing Charter that describe the results that tenants and others who use our services can expect from Atrium. The relevant standards and outcomes for the activity of dealing with rental arrears are detailed in Section 10 below. We will use these to measure our performance and also to be accountable to our customers.
- 1.5. The current legal context for the recovery of possession is set out in terms of Pre-action Requirements under sections 14 and 14A of the Housing (Scotland) Act ("the 2001 Act") as amended by section 155 of the 2010 Act and Repossession Orders under section 16 of the 2001 Act as amended by Section 153 of the 2010 Act. In implementing its approach to arrears recovery, Atrium is also mindful of its rights and responsibilities contained within the following relevant legislation:
 - The Housing (Scotland) Act 2001
 - The Housing (Scotland) Act 2010
 - The Equality Act 2010 – encourages adoption of principle duties and to have regard to the 9 protected characteristics
 - The Data Protection Act 1998 – sets standards for gathering and sharing of personal information
 - The Human Rights Act 1998 - has an effect on housing management functions, including Recovery of Possession Proceedings.
 - The Children (Scotland) Act 1995 – consider implications and options prior to undertaking recovery action.
 - The Bankruptcy and Diligence (Scotland) Act 2007 - sets out the legal framework for recovery of debt, including rent arrears

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- The Homelessness (Scotland) Act 2003 - requires us to advise the relevant local authority in statutory form when legal proceedings to raise proceedings are commenced
 - Welfare Reform Act 2012 - changes the rules concerning a number of benefits offered within the social security system and will have significance for tenant's ability to pay their rent and meet the other essential costs associated with maintaining a tenancy
 - National Health Service and Community Care Act 1990

2. Policy Aims and Objectives

2.1 Atrium Homes main objectives are to:

- Prevent arrears arising wherever possible
- Minimise rent arrears where they cannot be prevented
- Constructively engage tenants in rent arrears in joint efforts to control and reduce rent arrears
- Take legal action to repossess only where it is necessary to do so

2.2 Atrium Homes aims via this policy to:

- Ensure income loss due to arrears is kept to a minimum in order to help safeguard the financial wellbeing of the company
- Ensure that all applicants and tenants are given clear and helpful information on their responsibility to pay rent and how to pay their rent
- Prevent arrears developing wherever possible by maximising tenant income by offering welfare advice and benefit maximisation checks and signposting for all applicants and tenants where required
- Help and encourage tenants to pay rent through the promotion of a payment culture
- Identify and secure personal contact with tenants in arrears
- Offer appropriate support and guidance to tenants experiencing financial difficulties
- Recover arrears, wherever possible, with the voluntary co-operation of the tenant and initiating legal proceedings only when voluntary arrangements are not maintained
- Ensure eviction is a last resort when the Board is satisfied that all other reasonable methods of dealing with arrears have been investigated, used and failed
- Regular analysis of rent payments and arrears to devise strategies that will prevent arrears occurring or improve case management

3. Arrears Prevention

3.1 New Tenants

Atrium Homes will ensure that all new tenants are fully informed on their rental obligations.

We will ensure that::

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- all applicants being offered one of Atrium Homes' properties will be assessed and support requirements identified. In addition, they will be offered welfare advice prior to signing for their tenancy, in recognition that new tenants may find their new financial responsibilities confusing. We will assist through pre tenancy rent counselling, carrying out a benefit maximisation check and assist in the completion of Universal Credit claims, Housing Benefit (HB) and other appropriate welfare application forms
 - prior to signing missives applicants will be advised of the need to make rental payments in advance as per the tenancy agreement and of payments needed in advance, based on their financial circumstances
 - at the point of signing missives, each new tenant is made aware of the amount of rent due monthly, payment methods available and is provided with supporting literature including a tenants information pack and reminded of their obligation to maintain payments in advance, where appropriate
 - around 6 weeks after tenants move in, each tenant will receive a visit from their Estates Officer or Estates Assistant to check they are paying the correct rent and that all Housing Benefit and/or Universal Credit issues have been resolved.
 - new tenants will be assessed at pre-allocation visit and categorised regarding support requirements as Low/Medium/High. A staff member will be identified to monitor tenancy within prescribed timescales to ensure all rent matters dealt and with, payment culture established until case can be signed off.

3.2 Current Tenants

Atrium Homes will ensure that all current tenants are fully informed of their rental obligations.

We will ensure that:

- tenants are encouraged to make rental payments in advance as per tenancy agreement
- all tenants are made aware of the availability of Universal Credit, Housing Benefit and other welfare benefits and we will encourage tenants to take up benefit entitlement
- appointments will be offered to provide welfare advice/signposting or formal referral to other agencies to assist with tenancy sustainment
- an annual consultation exercise takes place relating to the rent review and tenants are afforded the opportunity to engage in debate with Atrium about issues such as affordability of rents etc. at that time
- we give all tenants at least 28 days advance notice of any rent increase. East Ayrshire Council will also receive at least one month's notice of an increase in rent charges.

3.3 Former Tenants

Atrium Homes will ensure that all former tenants are fully informed regarding any debts owed.

We will ensure that:

- where a termination of tenancy is received, we will advise the outgoing tenant of the rent due up to their termination date, along with any other debts
- where a pre-termination inspection is carried out a discussion will take place with the outgoing tenant regarding the above and an arrangement made were appropriate
- when keys are handed in we will carry out a final check and if any debt is owed an arrangement made to clear any outstanding debt

4. **Minimising Rent Arrears**

4.1 Identification

Early identification of non-payment of rent is essential for effective rent recovery. Atrium is committed to the most efficient use of staff resources and computer technology to monitor rent accounts. Mechanisms will be implemented, which minimise any delay between the date of payment and the credit of individual rent accounts. Similarly, payment methods, which are geared towards increasing accuracy and security, will be utilised.

We will ensure all rent accounts are regularly reviewed to identify arrear cases early. Suitable timescales for each stage of the arrears process are set out in our Debt Management Procedures.

4.2 Contact

Once an arrear is identified early personal contact will be established with the tenant by phone, text, e-mail or home visit. This will be to identify the cause of arrears, secure a voluntary repayment arrangement and to discuss the consequences of non-payment.

We will seek to secure a reasonable and affordable repayment arrangement or where non-payment is due to a benefit claim to assist the tenant with this and to encourage them to keep us updated on progress. An interim arrangement may be required until the tenant's entitlement has been determined.

4.3 Benefit Assistance

Atrium Homes recognises that some of its tenants may be eligible for Housing Benefit or Housing Costs. In such cases staff will:

- promote the availability of benefits
- encourage take up of housing benefit, Universal Credit and other benefits by its tenants

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- offer benefit entitlement checks
 - assist tenants make claims for housing benefit and Universal Credit
 - encourage tenants to inform the local authority, Atrium Homes and other relevant agencies about changes in their circumstances,
 - seek to ensure benefit is paid direct by the local authority or Department for Work and Pensions to Atrium Homes
 - ensure regular liaison with the relevant agency to minimise Housing Benefit/Housing costs difficulties
 - advise the relevant agency of any change to amount of tenants' rent or service charge
 - ensure tenants are kept informed of any changes to HB legislation by way of newsletter or special mailings

Welfare Reform, particularly the move to full service for Universal Credit will have a significant impact on our tenants' ability to pay their rent. We will therefore also assist Universal Credit claimants in a similar manner to the above and encourage tenants to use the Scottish Flexibilities to have their Housing Element paid directly to Atrium Homes, and where the tenant has known difficulties, an existing arrear or a history of arrears we will make Alternative Payment Applications to have the Housing Element paid directly to us to minimise arrears and help the tenant maintain their tenancy.

We will also seek to establish links with other agencies to ensure tenants are able to obtain independent benefit and money management advice.

4.4 Payment Options

Atrium Homes, in order to make rent payment as straightforward as possible, provide a variety of payment methods and publicise their availability.

Payment options, at present, are provided primarily through our payment card provider Allpay and include the Post Office, Paypoint, Standing Order, Direct Debit, phone payments, credit and debit card payments and internet payments through Allpay or Atrium's website, the Mobile app or the Tenant Portal. Other payment options include by BACS, cheque, HB direct or APA's via DWP.

Payment options will be highlighted to all tenants at both sign up and throughout their tenancy and all tenants will be asked what their preferred method of payment is for future payments. The use of Direct Debit will be encouraged where a tenant is working and has wages paid into a bank account etc.

Unfortunately cash payments can no longer be accepted in the office; however payments by card can still be made.

We will regularly review the rent payment options offered to our tenants, after considering the value for money of expanding the methods of payment available.

5. **Constructive Engagement**

5.1 Recovering the Arrears

Atrium Homes recognises that coping with debts can be a stressful experience for a tenant in arrears and that the existence of arrears can be a symptom of deeper financial problems. We therefore will be sensitive to tenants' problems when managing arrears but our aim is to ensure that we work together to recognise the problem and take positive action and effective steps to deal with the arrears.

It is important that all tenants in arrears recognise the importance of working with us to resolve their situation and safeguard their tenancies or credit history.

Atrium Homes will:

- provide tenants with access to welfare advice and carry out a benefit maximisation check where and when required
- seek to make suitable and affordable arrangements for repayment of arrears based on the tenants' income
- agree to implement deductions from any ongoing benefits at the earliest possible stage and encourage the tenant to make additional payments where possible
- provide information of external agencies and debt counselling services and promote their services
- assist vulnerable tenants, including working with support workers and external agencies, with the tenants consent
- use effective written and oral communication. Written contact regarding arrears will be in a clear form using plain, unambiguous language stating the amount of rent payable, payment dates and the frequency of payments due. Most correspondence to tenants in arrears includes details of local advice agencies where they can obtain money advice or assistance with debt management
- conduct all interviews, whether carried out in the tenant's home or in the office in a sensitive and non-threatening manner. They will take place in private and be confidential. All interviews will be documented and any key points confirmed in writing

However, we will also expect tenants to demonstrate that they are able to manage their arrears.

Atrium Homes will:

- expect tenants to be willing to enter into affordable and reasonable repayment arrangements
- provide information requested such as income and expenditure details to enable an assessment of their financial circumstances
- apply for any benefits they may be entitled to and to provide any information in support of any claims or applications

5.2 Keeping in Contact

Atrium Homes recognises the importance of personal contact and face-to-face communication with tenants in arrears and will use a variety of methods to establish and maintain contact.

Atrium Homes will:

- make every effort possible to contact a tenant who persistently refuses to acknowledge a debt problem before taking action
- monitor mutually agreed payment arrangements consistently and take appropriate action should arrangements breakdown. Payment arrangements must be no less than the equivalent of the amount deductible under the Rent Arrears Direct payment system.
- ensure all arrear action is followed through to satisfactory conclusion

However, we will also expect tenants to maintain contact, particularly where they are unable to maintain their voluntary repayment arrangement or where there has been a change in their circumstances, so that we can review matters.

5.3 Escalation

Atrium Homes will only escalate action where tenants with arrears refuse to work with us to resolve matters, are failing to make or maintain appropriate payments, failing to maintain a voluntary arrangement, have failed to provide information required in support of a Housing Benefit or Universal Credit claim and/or failed to contact us to discuss matters.

Our policy is for early escalation to be managed by our staff and will include all stages from initial warnings, through broken arrangements and up to and including issuing final warning letters. These actions will be considered to be part of our arrears recovery process, since the tenant still has the option to work with us to reach a resolution to their arrears.

As part of our case escalation, we will ensure all Pre-Action Requirements are met, in case legal action becomes necessary. We will normally arrange an interview with a senior member of staff prior to instigating legal action.

6. **Legal Action**

Atrium Homes will only consider initiating legal action where no arrangement to pay can be agreed or when such an arrangement has been broken, the tenant has failed to contact us to enable us to review matters and the arrear is regarded as serious.

Atrium Homes will operate an escalation approach to legal action with more serious action normally only being taken in relation to higher level arrears where other action has proved ineffective or where a tenant is persistently in arrears. These actions will now be considered to be part of our debt management process, since there will be legal consequences to the tenant's tenancy, should they fail to work with us to reach a resolution to their arrears.

We will ensure that tenants in serious arrears are made aware that we will utilise fully the legal sanctions available for debt recovery.

However, legal action will not be taken against a tenant who can demonstrate any of the following:

- They have provided the local authority/DWP with all the evidence required to process a housing benefit claim/housing costs award;

- There is a reasonable expectation of eligibility for housing costs being paid through Universal Credit or housing benefit; and
- They have paid other sums due not covered by housing costs paid through Universal Credit alternative payment arrangements or housing benefit .

6.1 Initiating Legal Process

Atrium Homes will consider the legal process to have been initiated where it has served on the tenant a Notice of Proceedings. The Notice will be issued in the prescribed form, and will outline the Ground(s) for our action, will provide the tenant with a narrative explanation and detail the steps we have taken to meet the Pre-Action Requirements. A copy of the Notice will be served on all known Qualifying Occupiers.

Our covering letter will outline to the tenant what steps they can take to avoid legal action and we will respond positively to tenants who contact us to resolve matters. However, failure by the tenant to respond to the Notice of Proceedings or to make a satisfactory agreement towards the arrear will result in Atrium's solicitor being instructed to seek Decree.

Atrium staff will pass details of all tenants who are issued with a Notice of Proceedings to East Ayrshire Council.

6.2 Court Action

Atrium Homes will endeavour to keep the tenant fully informed throughout the legal action process, of the stage the action is at and the possible consequences of that action.

6.3 Eviction

Atrium Homes will seek to evict tenants in breach of at least one of the Grounds for Repossession relating to arrears, contained in the Tenancy Agreement only as a last resort and where other recovery action has proved ineffective.

If Decree is granted, staff will continue to find means of preventing the act of eviction by encouraging appropriate and realistic arrangements, which are judged to be likely to be fulfilled. A Decree for Eviction is only enforceable for 6 months from the date granted and this provides the tenant with a final opportunity to avoid eviction. Where the tenant has maintained an agreed repayment arrangement we will not enforce Decree by Eviction, but where tenants fail to work with us authority to Evict will be sought by staff as detailed in Section 7.

However, where decree is enforced Atrium will liaise with East Ayrshire Council, Social Work Department and Homelessness Sections to ensure that any transitional preparations can be made to assist with the household's next step towards obtaining emergency accommodation.

6.4 Legal Expenses

Atrium Homes will normally seek to recover the cost of progressing legal action from the debtor.

7. Authority to implement

Atrium Homes has established levels of authority at which a decision to pursue eviction action may be taken.

All legal remedies, except the enforcement of eviction, will be delegated to staff members. Managers will issue clear procedures and guidelines to staff to prevent inconsistent action and inequitable treatment and will regularly review the actions taken by staff.

The Board of Atrium Homes has delegated the Operations Sub Committee authority to monitor the level of rent arrears and take action, including court action, to secure payments of rent. This Sub Committee will consider cases where a Sheriff has granted Decree and make appropriate recommendations regarding eviction cases to Board.

8. Miscellaneous Provisions

8.1 Improvements to Property

Atrium Homes's aims to ensure as many of its tenants can benefit from its various programmes to improve its properties. Therefore, tenants who are in breach of the tenancy agreement due to arrears of rent, will be included in Atrium's programme of planned and cyclical maintenance **as long as they are keeping to an agreed repayment arrangement**. *However, those tenants who are in arrears of rent and have not agreed or maintained a repayment arrangement may be excluded from any contract.*

Prior to excluding any tenant from a contract their case will be discussed on an individual basis and authorisation to exclude will be decided by the Director of Operations and Director of Investment.

8.2 Former Tenant Arrears

Former tenant arrears management will follow the principles outlined above for arrears recovery. However, where legal action is required this will be done in accordance with the requirements of the The Bankruptcy and Diligence (Scotland) Act 2007.

8.3 Legal Expenses

Legal expenses will be invoiced to tenants based on the court decision and will be kept in a linked account. Recovery will follow the principles outlined above for arrears recovery. However, where legal action is required this will be done in accordance with the requirements of the The Bankruptcy and Diligence (Scotland) Act 2007.

8.4 Rechargeable Repairs

Rechargeable repairs will be issued in accordance with our Repairs and Maintenance Policy. The management and recovery of recharge repair accounts will follow the principles outlined above for arrears recovery. However, where legal action is required this will be done in accordance with the requirements of the The Bankruptcy and Diligence (Scotland) Act 2007.

8.5 Credit Balances

Atrium Homes will monitor all rent accounts regularly to identify tenants with credit balances and notify them of the credit balances.

Atrium Homes will, in appropriate circumstances, reimburse credits to the tenant. Requests for the refund of overpaid rent will be actioned within 10 working days of receipt. The tenant will also have the option of leaving the credit on the account and reducing future payments until the credit is exhausted.

8.6 Write Offs

8.6.1 *Categories of Debt*

Irrecoverable debts may include

- Rent Arrears owed by current tenants
- Rent Arrears owed by former Tenants
- Rechargeable repairs
- Legal Expenses

Atrium will not normally consider any debt owed by a current tenant as being irrecoverable. However, where the tenant has been sequestered or made bankrupt the arrear may become irrecoverable.

8.6.2 *Criteria for Write Off*

Atrium will consider writing off debts as irrecoverable in the following circumstances:

- The individual is deceased and their estate is insufficient to meet the debt
- The individual has been admitted to long-term hospital or institutional care and has insufficient income or capital to meet the debt
- The individual has left without notifying a forwarding address and all reasonable attempts to establish their whereabouts have been made
- The individuals whereabouts are known but the level of debt and the cost of recovery make it non-cost effective to pursue
- The individual has no assets, is dependant on state benefits and is likely to be so for the foreseeable future and recovery of the debt could not be achieved without causing hardship
- The individual has been declared bankrupt or has been sequestered or entered into a Protected Trust Deed (and confirmation has been received) and limited or no dividend is payable
- Where the tenancy end date is greater than 12 months and all actions have been exhausted

8.6.3 *Management Adjustments to Accounts*

Atrium also recognises there may be small debt or credit balances on accounts that would not be cost effective to collect or refund. We will on an annual basis adjust accounts to remove small debt or credit balances leaving accounts with a nil balance.

8.6.4 *Write Off and Management Adjustment Process*

As part of its annual budgeting process, Atrium will make appropriate provision for bad debts which may require to be written off in the course of the following financial year. The amount of provision may vary from year to year in recognition that debt levels may vary.

Also annually, we will consider debt cases which fulfil the criteria for write off and account adjustment and approve action as appropriate. Debts identified for write off will be presented to the Board on the recommendation of and consideration by the Operations Sub Committee. This will be done in accordance with the principle already used for debt matters, cases will be presented anonymously to Committee and no individual details will be included.

8.6.5 *Use of External Agencies*

Atrium Homes will consider the use of external debt collection agencies for debts it cannot cost effectively pursue.

8.7 Confidentiality

All information relating to arrears of rent will remain confidential to the tenant and Atrium staff and will not be passed to any other agency without the consent of the tenant. A signed mandate must be provided before staff will enter into discussions regarding an individual case.

Reporting of arrears cases to the Operations Sub Committee and Board will be by reference number only. No tenant's name or address will be included.

9. Service Delivery

Atrium Homes will:

- establish clear procedures to be followed and monitor their implementation
- identify an appropriate number of staff with responsibility for debt management and arrears recovery
- ensure that all staff have the appropriate training and knowledge to perform their job effectively.

10. Performance Monitoring

10.1 Scottish Social Housing Charter

The Scottish Social Housing Charter sets standards and outcomes that describe the results that tenants and others who use their services can expect from social landlords. The relevant standards and outcomes for the

activity of debt management are listed below. We will use these to measure our performance and also to be accountable to our customers.

Charter Outcome 1: Equalities

Social landlords perform in all aspects of their housing services so that:

- *Every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.*

We aim to ensure that we behave fairly to our customers. We have in place appropriate customer care policies and provide relevant training to our staff. We will always take into account customers' individual needs when dealing with any comments or complaints about our estate management services.

Charter Outcome 2: Communication

Social landlords manage their businesses so that:

- *Tenants and other customers find it easy to communicate with their landlord and get information they need about their landlord, how and why it makes decisions and the services it provides.*

We will use one to one conversations, telephone, email, text, our website, Facebook, translators, interpreters and advocates where the customer wants this to ensure that everyone finds it easy to communicate with us using their chosen mode of communication. Similarly, any appropriate information can be made available to meet particular customer needs. Customers can ask us about the services we provide, our policies and how we make decisions.

Charter Outcome 3: Participation

Social landlords manage their businesses so that:

- *Tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with.*

We will use the communication methods outlined above to enable our customers to participate in and influence our decisions. We will also use a variety of approaches to enable customers to influence our decisions such as working with residents groups, using surveys or focus groups and inviting customers to organised inspections.

Charter Outcome 11: Tenancy Sustainment

Social landlords make sure that:

- *Tenants get the information they need on how to obtain support to remain in their home and ensure suitable support is available, including services provided directly by the landlord and by other organisations.*

We will offer advice and assistance to residents to help them maintain their tenancy by referring them to appropriate agencies.

Charter Outcome 13: Value for Money

Social landlords manage all aspects of their businesses so that:

- *Tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.*

We will manage the debts owed to us effectively to minimise current and former tenant arrears levels, seek to recover our legal expenses and rechargeable repairs costs and provide information to our tenants and other customers on our debt management performance.

10.2 Reporting

Atrium Homes will monitor its arrears management performance using benchmarking and local targets.

The Operations Sub Committee will be provided with a range of information on a quarterly basis including:

- Current tenant gross, technical and non-technical arrears as percentage of Annual Gross Rent with a comparison against ARC Scottish Average, previous periods and broken down by a range of values
- Detailed narrative of all high value arrears cases including current arrears level, arrangement details, contact and current position
- Former tenant arrears levels over previous 12 month period

In addition, the Operations Sub Committee will receive reports on arrears where legal action has been taken and approval for Decree is being sought. The individual reports will give a history of the arrear as well as the up-to-date situation and a summary of action taken. This Sub Committee's recommendations will then be considered by Board.

Key performance information will also be reported to our tenants and other customers on a quarterly basis.

10.3 Benchmarking

Atrium Homes will establish a set of benchmarks based on the performance of other Registered Social Landlords and comparison with national standards.

Atrium Homes will also establish realistic arrears targets for arrears levels on an annual basis. The target will be challenging, achievable and based on past performance and a policy of continuous improvement. When setting the annual target, consideration will be given to the resources necessary to achieve the target.

11. Review

11.1 This policy will be reviewed at least every five years and in response to changing legislative requirements.