

INNISFREE HOUSING ASSOCIATION
RENT ARREARS POLICY

Table of Contents

- 1. Introduction**
- 2. Policy Statement**
- 3. The Law and Best Practice**
- 4. Principles of Arrears Recovery**
- 5. Monitoring Performance and Standards**
- 6. Equality and Diversity**
- 7. Complaints**
- 8. Review**

INNISFREE HOUSING ASSOCIATION RENT ARREARS POLICY

1. Introduction

1.1 Rent Arrears are debts owed to the Association as a result of tenants failing to make the required payments when they are due under the terms of a tenancy agreement. Most tenants have a weekly tenancy and rent is due on the Monday of each week. We define a tenant as being in arrears if the required payment has not been credited to their account by the following Monday. This is the case even if part or all of the payment due is expected in the form of housing benefit on the tenant's behalf.

2. Policy Statement

- 2.1 Rents are the main source of income to the Association. Paying the rent is a key condition of a tenancy. We require rent to be paid on time and in full. Working to achieve this is a critically important task for the Housing Services Team.
- 2.2 The rent collection rate is also one of the measures the Housing Corporation uses to assess our efficiency and management ability. As a social landlord we aim to both successfully enforce tenants' obligations to pay rent when it is due and by this process seek to avoid depriving tenants of their homes as a result of rent arrears.
- 2.3 Managing and controlling rent arrears effectively is an acquired skill. It involves systematically following procedures, building a constructive relationship with tenants and liaising positively with outside agencies and other support staff. This procedure is designed to guide housing and support officers through these processes.
- 2.4 This policy is compliant with the standards and recommendations set out in the Housing Corporation's Circular 07/04, The Rent Arrears Protocol, and The Disability Discrimination Act 1995 (as amended by 2005 Act), Mental Capacity Act 2005 and the CRE Code of Practice on Racial Equality in Housing 2006.

Our Aims:

- Maximise the rent collected in relation to the rent due
- Minimise the levels of arrears
- Minimise evictions and bad debts
- Apply firm, fair, efficient, effective and consistent approaches to arrears work
- Establish a sense of responsibility for tenants regarding rent payments
- Help to maximise tenant incomes through benefit advice and assistance.

Aims are achieved by the following:

- Allocating appropriate levels of staff resources to arrears work
- Providing appropriate support for staff responsible for arrears work – including training, supervision, IT, liaison between departments

- Setting, monitoring and reviewing appropriate performance targets in the context of continuous improvement
- Taking all measures possible to prevent arrears accruing initially and then from becoming unmanageable, including early and personal contact with tenants in arrears
- Seeking to maximise the performance of Housing Benefit departments
- Apply legal sanctions effectively, ensuring that evictions are carried out only when there are no alternative effective actions
- Identify and offer appropriate support to vulnerable tenants in arrears, assist them with managing the debt and using court action as a last resort.

3. The Law and Best Practice .

In addition to Housing Law relating to grounds for possession in the Housing Acts 1988 and 1996 (full details of which are attached at "Appendix B"), we are also now required to comply with various other legislation and best practice when dealing with rent arrears cases. These are described in brief below. We have also taken into account best practice as recommended by the Department for Communities and Local Government.

3.1 Rent Arrears Protocol

3.1.1 This policy complies with the new protocol for possession claims based on rent arrears which comes into force on 2nd October 2006.

3.1.2 The protocol (attached as Appendix A) reflects the guidance on best practice given to Social Landlords in the collection of rent arrears. It recognises that it is in the interests of both Landlords and tenants to ensure that the rent is paid promptly and to ensure that difficulties are resolved wherever possible without court proceedings.

3.1.3 Its aim is to encourage more pre-action contact between landlords and tenants to enable court time to be used more effectively and to ensure that the needs of vulnerable/disabled tenants are considered and acted upon and that they are not being treated less favourably.

3.1.4 Courts will take into account whether this protocol has been followed when considering what order to make.

3.1.5 The Association's officers already adopt the best practice recommended in the protocol, which is reflected in our policy and procedure, however, there will now be more emphasis on avoiding court action or using it as a last resort.

3.2 Housing Corporation Circular 07/04 –Tenancy Management: Eligibility and evictions

3.2.1 This policy complies with the expectations set out in the circular. The key points of the circular are:

- a) If tenants are in arrears and wish to move they should be actively encouraged to enter into repayment agreements to enable them to access a transfer.
- b) Possession Proceedings for rent arrears should not be started against a tenant who can demonstrate that they have a reasonable expectation of eligibility for housing benefit and have supplied all relevant documentation.

- c) Debt advice will be given to those in arrears with their rent.
- d) Mandatory Grounds for Possession (Ground 8) will not be used without first consulting tenants and when Board approval has been obtained.
- e) At the start of a tenancy housing benefit advice will be given to help maximise entitlement.

3.3 Disability Discrimination Act 1995 (amended in 2005)

3.3.1 The Act makes it illegal for service providers, Landlords and others to discriminate against disabled persons in certain circumstances or treat them less favourably when providing services. This includes action proposed or taken in respect of rent arrears.

3.3.2 The three key points to consider when pursuing action for rent arrears are:

- a) Is the person disabled? (as defined in the Disability Discrimination Act 1995)
- b) Has the person been discriminated against?
- c) Is the Landlord justified in discriminating?

3.4 Mental Capacity Act 2005

3.4.1 If a person who is considered to lack capacity does not get the appropriate support and assistance when dealing with their rent arrears, a defence could be submitted on the basis of disability discrimination.

3.4.2 If rent arrears action is taken against any tenant who we believe lacks capacity officers must ensure that the rent arrears protocol (and our own best practice guidelines noted below) are strictly followed and that we support the appointment of a "Litigation Friend" to act for the tenant if court proceedings are pursued.

3.5 CRE Code of Practice for Racial Equality in Housing

3.5.1 The new Code of Practice reinforces the need for Landlords to ensure that services (including income collection and rent arrears) are delivered fairly, according to need regardless of racial group.

3.5.2 There is also a requirement to ensure that people of different racial groups are made fully aware of their rights and entitlements to benefits and that information is made available in forms which enable those who do not speak English well to know and understand their rights.

3.6 Vulnerability and Best Practice

3.6.1 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. Vulnerable tenants may be particularly liable to accumulate arrears if not given appropriate support from an early stage of their tenancy.

3.6.2 It is vital that we address vulnerability within the rent arrears policy to ensure that we are pro-active and that support is put in place at an early stage to assist the tenant with problems and use preventative measures to reduce their arrears and sustain tenancies.

3.6.3 We will aim to provide support through our Floating Support Services or refer the tenant to an external agency including statutory support through Social Services.

3.6.4 It is particularly important that officers assess whether a tenant is vulnerable at the time they sign up for a tenancy so the appropriate support

can be put in place at an early stage. This includes arranging a “settling in” visit 3 weeks after the tenant moves in.

- 3.6.5 Officers will assist with developing a support network which could be made up of the tenant’s family members, social services, counsellors, GPs and other advice workers who will work jointly to ensure that the tenant is adequately supported and assisted.
- 3.6.6 Officers will work to maximise tenants’ incomes and assist with managing their finances. Officers will provide welfare benefits advice where possible and debt counselling or refer to specialist agencies who are expert in the field.
- 3.6.7 All tenants must be told of their rights to seek legal advice/representation throughout the process. Where tenants are vulnerable the Association is obliged to explain these rights in a way that is understandable to them. This approach must be taken at every stage of the procedure including the right to appeal in court against eviction warrant.

4. Principles of arrears recovery

4.1 In rent arrears work the Association needs to be careful to balance the ‘landlord’ role with the ‘social’ role of being a social landlord. Officers must collect enough rent to pay for managing and maintaining the homes we provide but, as a charity serving those in considerable need, we must assist sympathetically with the financial and other problems facing our tenants.

4.2 A key principle is early personal contact with the tenant in arrears to understand their circumstances, offer appropriate advice and assistance and prevent arrears increasing to the level where legal action is required. If legal action is ultimately taken this personal contact will be a key factor in the Court’s assessment of our claim.

4.3 Keep tenants informed

Prevention is better than cure. Therefore tenants have to know where they stand regarding payment of rent and arrears. We aim to keep all tenants informed of our arrears policy & procedure and the assistance they can expect from us, as well as other sources of advice and assistance. We provide this information through the sign-up procedure, in the tenants’ handbook and subsequent, interviews, visits, newsletters, statements and letters. If required we will arrange for our policy to be available in relevant community languages, in large print, Braille or audiocassette as necessary.

4.4 Identify arrears early

Arrears must be identified quickly. One missed payment, even if small, may be extremely difficult to recover, especially where the tenant is on a low income or dependent on welfare benefits. When the Association receives notification of changes to Housing Benefit entitlement and where these increase the level of contribution due from the tenant we will advise them of this as quickly as possible to enable them to adjust their payments and avoid falling into arrears.

4.5 Early contact

Arrears must not be allowed to build up on any tenants account without contact from the Association. Rent debt may be given a low priority in a family’s spending

plans. If we allow arrears to build up, and then make sudden demands for payment of large sums, this may cause panic leading to short term measures (e.g. commercial loans) or to inaction where a household can see no solutions to its problems. In all situations we will aim to make contact and interview the tenant as early as possible to provide advice, remind them of the high priority of rent against any other debts and to encourage the tenant to deal with the debt before the situation becomes too serious. We will encourage the tenant to complete Housing Benefit forms and gather all of the verification documents at the sign up stage to speed up the process. All new tenants will be visited at home within three weeks of being signed up to discuss and establish whether their claims have been successfully processed and agree a regular payment routine.

4.6 Face to face contact

Direct contact with someone is often the most effective way of resolving the situation and reaching a realistic repayment arrangement. Officers will be expected to try and make direct contact with all tenants, but especially if the tenant is vulnerable or is unable to read or understand our letters and leaflets, e.g. if a non-English reader or visually impaired. Home visits may also highlight where the cause of the arrears is the absence of the tenant and the illegal occupation by another party.

4.7 Frequent contact with tenants

Housing Officers must endeavour to record as many ways of contacting a tenant as possible and ensure that next of kin details are obtained. Records of all telephone numbers should be kept on the house file or notebook.

4.8 Clear and accurate record keeping

Housing Officers must keep clear and accurate records of all actions taken to recover arrears. Keep relevant records on both the manual and computer files and in the "notes" section of our rent accounting system. Proper record keeping will help ensure that where cases go to court they are presented in a professional manner with evidence that correct procedures have been followed. Up-to-date and accurate recording is also vital to ensure that a person unfamiliar with the case may continue action in the absence of the Housing Officer and be aware of individual tenants' needs and vulnerability.

4.9 Accurate rent account information to tenants

Accurate rent accounting information is vital for both staff and tenants. The Association will send rent statements to all tenants every 3 months and, where appropriate, attach a copy statement to most of the standard arrears letters. Tenants can ask for a statement at any time as well. In the case of former tenants arrears on an old account, a statement should be sent out if the forwarding address is known to assist with the recovery of the debt.

4.10 Regular monitoring of accounts

Housing officers should monitor all accounts in arrears weekly using the arrears reports provided by the finance officer. The Housing Director will oversee this, ensuring adequate time is allocated to this exercise.

4.11 Arrears from a former tenancy

If (exceptionally) we agree the transfer of a tenant in arrears, we will always make it a condition of the transfer that the tenant signs an agreement as part of their new tenancy agreement to allow us to use payments of current rent or

charges to reduce/clear arrears outstanding on former tenancies.

4.12 Housing Benefit

A high proportion of arrears are the result of difficulties with Housing Benefit. For the tenant, facing such bureaucracy alone can be daunting. Housing Officers should assist and chase relevant HB departments on the tenant's behalf where necessary. But this must be done without taking away the tenant's responsibility for ensuring payments are made – we make it clear to tenants claiming benefit that **they** are still responsible for ensuring payment is made. If we take legal action for arrears this is against the tenant – not the Housing Benefit departments. Housing Officers must establish regular and effective liaison with HB staff to discuss ongoing claims and overpayments. The Association should enter into and sign a Service Level Agreement with each Local Authority Housing Benefit department, and use it as a tool to achieve better performance. It is also important that officers attend regular benefit liaison meetings to raise concerns and we should always inform Housing Benefits of suspected Housing Benefit overpayments to avoid large reclaims later on.

4.13 Appropriate training for staff

To provide effective advice and assistance to tenants, front-line staff must be familiar with the Association's policy and receive adequate training and support in interviewing, welfare rights and Housing Benefit. All new/relevant staff must also receive training in the use of our rent accounting system within their induction period and should familiarise themselves with the Policy and Procedures on rent arrears.

4.14 Confidentiality

Officers must ensure that all office interviews regarding arrears are conducted in private. Officers must not provide the details of tenants rent accounts to any other persons without the written permission of the tenant. This may take the form of an authorisation to deal with certain parties on the tenants behalf, signed at the sign up stage. When dealing with a phone query, confirm the caller is the tenant - for example by asking for their tenancy code or date of birth. If there are any suspicions, officers must tell them you will supply the information by post to the property address rather than over the phone.

4.15 Providing support and advice

In circumstances where officers cannot confidently give advice, perhaps in particularly sensitive or complex cases, further support should be sought. It may be appropriate to consult colleagues within the team who may often be a useful source of experience. Otherwise, all serious issues should be brought to the attention of the Senior Housing Officer or Housing Director. If we require the advice of Solicitors or where we use them in certain legal action, general advice is often available without charge (assuming this service is not abused), but only the Housing Director or another Senior Manager have authority to incur costs in taking professional advice or action.

4.16 Maximising benefit entitlement and debt counseling

Where entitlement clearly exists, officers must make every effort to help tenants maximise their income through benefits. Where entitlement is not clear or there are other debt problems then specialist advice will be needed. In such situations officers should refer the tenant to an appropriate advice agency. The Association will do everything to ensure that tenants seek independent advice and will supply them with a list of appropriate agencies. It is vital that tenants obtain independent

advice as soon as possible. Officers will ensure all correspondence advises this.

5.0 Monitoring Performance, Standards and Compliance

- 5.1** The Association is committed to achieving and maintaining a high standard of performance to maximise rental income and ensure we remain in the top tier of the Housing Corporation's table of top performing Associations.
- 5.2** The Housing Services Team, under the close supervision of the Housing Director will closely monitor all cases on a weekly basis, ensuring that the correct procedures are followed.
- 5.3** Individual one to one Supervision meetings will be held at least every 6 weeks to review cases and agree action. All actions will be recorded by the Housing Director.
- 5.4** Quarterly reports will be prepared for submission to the Housing Services Committee and the Board, detailing all areas of performance.
- 5.5** We will monitor all cases where legal action commences, including the ethnicity of the tenants involved to ensure that the policy is being applied consistently and fairly.
- 5.6** We will continue to benchmark with members of the Solomon Project to ensure that we are performing to a good and acceptable standard and to ensure our practices and procedures remain up-to-date and applicable.

6.0 Equality and Diversity

- 6.1** Innisfree is aware that certain groups and individuals in society are disadvantaged because of discrimination experienced as a result of colour, race, nationality, belief or religion, sexuality, sex, marital or family status, physical or mental health, hiv/aids, age or class. It further recognises that discrimination can be direct or indirect and takes place at personal and institutional levels. Innisfree believes that such discrimination is wrong. We are committed to ensuring that our policies and practices provide equal treatment to all in terms of the provision of housing and delivery of services, advice and support.
- 6.2** Staff must be aware of the diverse communication needs of residents. The Association will provide document translation and interpretation services on request or minicom facilities for deaf and hard of hearing residents. We will also provide large print and Braille where required. Staff are advised to produce written documents and letters that follow plain English guidelines on language and layout so they can be understood by as wide an audience as possible. Staff must be sensitive to the needs of residents who cannot read, which includes having an awareness of the issues surrounding both illiteracy and dyslexia. Where staff are aware of individual language needs, they must adapt their communication methods as appropriate.
- 6.3** Staff and Board members are expected to support and positively promote the Association's Equality and Diversity Policy. It is a condition of service for all staff and a requirement for all Board members that they implement this policy in all areas of the Association's work.

7.0 Complaints

7.1 Innisfree is committed to providing a high quality and fair service to all tenants. If, for any reason, a tenant is dissatisfied with the service they have received they have a right to complain.

7.2 In the first instance, the tenant should speak to the housing officer for their property but If the tenant is still not happy they can make a formal complaint by using the Complaints Procedure. All staff will endeavour to respond quickly to remedy any complaint. Tenants will be informed of the steps that are being taken to investigate and deal with the matter. All tenants who complain will be provided with a copy of the Complaints Policy, which outlines the procedure and details tenants' rights.

8.0 Review

8.1 This policy will be reviewed in 2009, unless there are any further changes to legislation or if we have suggestions for further improvements from tenants and stakeholders that would require the policy to be reviewed at an earlier stage.