

Former Tenant Arrears/Credits

FORMER TENANT ARREARS/CREDITS POLICY

1. WHO ARE FORMER TENANTS?

1.1 Former tenants are tenants who no longer live in the property allocated to them either because:-

- (a) they have terminated the tenancy by giving 28 days notice, or
- (b) they have absconded from the property without giving notice, or
- (c) they have been evicted from the property.

These tenants may have outstanding balances related to the property that they have vacated.

The process of the writing off of former tenant arrears and/or credit balances is an accounting treatment to recognise the likelihood of recovery or repayment.

The process does not mean that the tenant's liability is extinguished and if a former tenant returns to ACHA or if ACHA staff are aware of the current whereabouts of a former tenant then recovery will still be pursued.

Likewise should a former tenant make a claim for repayment of credit balances then ACHA will be required to reimburse that former tenant. ACHA's Finance & IT Department will therefore maintain suitable records in respect of all items written off to enable any potential future recovery or reimbursement to be effected.

2. HOW WILL WE DEAL WITH FORMER TENANT BALANCES?

2.1 All tenants when terminating their tenancy are encouraged to pay any outstanding arrears of rent and will be advised of the implications involved if rent arrears are not paid in full by the date the tenancy ends. *This will be carried out by Area Housing & Neighbourhood Services staff.*

2.2 Arrears control and recovery action will be activated when the status of the tenancy changes to former tenant and a balance remains outstanding on the account. *This will be carried out by Finance & IT.*

2.3 Former tenants in arrears unable to clear the sum due in full by the tenancy end date will be encouraged to agree a repayment plan that is affordable and sustainable, and which complies as a minimum with the Association's arrangements and agreements policy.

2.5 Legal action to recover the arrears will be taken in cases where an assessment of the former tenant's financial circumstances indicate that such action would be appropriate. *This will be carried out by Finance & IT.*

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- 2.6 Where a decree for payment is already held, then the debt may be referred to a Debt collection Agency used by the Association, to be collected along with any expenses outstanding. The Association will tender in accordance with its rules for the services of a Debt Collection Agency. That Agency must be registered with a trade body such as the Credit Services Association or Better Payment Practices Group or similar. In addition that agent must provide clear and unambiguous evidence of a code of practice that they follow and agree to not bring the Association in to disrepute through its practices. Any agent must have clear terms, conditions and fee structures. The passing of any data to an agent must also comply with the best practice guidance established under the Data Protection Act requirements.
- 2.7 Where the arrears are in respect of a deceased tenant, action will be limited to contacting the next of kin or executor to register a claim against the estate.
- 2.8 Where a debt is uneconomic to pursue or there is no prospect of recovery, the debt will be written off in accordance with the Association's policy on irrecoverable debt.
- 2.9 Wherever possible, any credit balance left in a former tenant account will be refunded to the tenant, or will be paid back to Argyll & Bute Council if a Housing Benefit overpayment exists.

3. WHAT PROCEDURES WILL WE USE TO RECOVER FORMER TENANT ARREARS?

Area Office Level

- 3.1 When a tenant submits a Notice of Termination of Tenancy to us we will check the balance on the rent account and provide the tenant with a statement detailing the amount due to be paid up to the date of termination of the tenancy.
- 3.2 We will seek an agreement from the tenant for payment of the amount due by the date of termination of the tenancy. The agreement will also include a Data Protection Act consent for ACHA to disclose personal information held by us to a third party in respect of recovery of any debt.
- 3.3 We will record tenants' new addresses and telephone numbers on our system so that we are able to make contact with them should payment not be made.
- 3.4 When the tenant returns the keys for the property we will check the balance on the account and ask the tenant for payment or an arrangement for payment of any balance.

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Finance & IT Level

- 3.5 The rent account will be checked for the forwarding address or contact number. If no details are recorded, the Area Office will be contacted and asked if any further details are available. If a phone number is available, this will be tried, and if possible a forwarding address will be obtained from the tenant.
- 3.6 All former tenants will be sent a letter requesting payment, within 14 days, of the balance outstanding on the account at the date of termination, and give details of the methods that can be used to pay this sum.
- 3.7 If no response is received after 14 days, tenants owing £25.01 or more will be issued with a reminder letter, giving them a further 7 days to make full settlement. This letter will give the former tenant details of the action we will take if the account is not cleared within 7 days. Balances of less than £25.00 will be written off (see write-offs below)
- 3.8 If no response is received from tenants owing more than £25.01 after being issued with the reminder letter, an invoice will then be issued to all tenants owing £50.01 or more, and the sundry debtor procedure will be followed. Balances of £50.00 or less will be written off (see write-offs below).
- 3.9 Where a tenant was evicted for rent arrears, the Association will pursue recovery of the terms of the decree for payment, recovery of possession and expenses granted at court, up to the value of the sum sued. Where the former tenant arrears are greater than the value of the sum sued on the decree, a separate action will be raised for the difference of the sum sued and the balance due at termination of the tenancy. *This will be the responsibility of Finance & IT to conclude*

4. WRITE-OFFS

- 4.1 The Association will consider writing off former tenant rent arrears in the following circumstances:
- Where the tenant(s) have absconded and whereabouts unknown
 - Where the tenant(s) are deceased & have left no estate
 - Where the tenant(s) are in long term hospital care or serving a long term prison sentence
 - Where the debt is £25.00 or less, after receiving the first former tenant arrears letter
 - Where the debt is £50.00 or less, after receiving the first former tenant arrears letter, and a 7-day reminder letter
 - Where the tenant(s) have been sequestered
 - On the recommendation of the Chief Executive and/or the Director of Finance & IT

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- 4.2 A list of all former tenant rent arrears to be considered for writing off without prejudice to future collection will be placed before the Board twice annually (March & September).

5. CREDIT BALANCES

- 5.1 The balance will firstly be checked to ensure it is correct, i.e. it is not an overpayment of Housing Benefit (where the tenant has Housing Benefit paid direct to ACHA. If an overpayment exists, an invoice will be received from Argyll and Bute Council and this will clear the credit from the rent account. Any shortfall will be recovered from the tenant, or any left-over credit will be refunded, or transferred to the new account if the tenant has transferred to another ACHA property.
- 5.2 If the tenant has moved to another ACHA property, the credit should be transferred to the new account, using the appropriate transfer form
- 5.3 If the tenant has moved away, the balance is correct and there is no Housing Benefit overpayment, then the tenant should be refunded using the payment request form. The balance should be removed from the rent account using the weekly refund sheet.
- 5.4 Where the tenant is deceased, attempts will be made to obtain details of the Executors, and a cheque issued to the Executors.

6. WRITE-OFFS – CREDITS

- 6.1 The Association will consider writing off former tenant credit balances in the following circumstances:
- Where the credit remaining is £5.00 or less
 - Where no forwarding address or contact details can be obtained for the tenant(s)

7. RESPONSIBILITY & REVIEW

- The Finance Manager and the Director of Finance & IT will review this policy regularly in accordance with the Association's practice of policy review.

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