Affordable Rent Collection, Arrears and Debt Recovery Policy

SER-POL-16

Version 7.0

Date approved: 12 November 2024

Approved by: People and Places Committee

1. Aims and Objectives

1.1 The Trust will take a Rent First approach to social and affordable collection where every Contact Counts with the following key aims:

- To collect all of the rent due;
- To reduce rent arrears and keep these to a minimum;
- To tackle the causes of rent arrears and to reduce the number of rent arrears cases in Court and the number of evictions carried out;
- To actively seek to reduce former tenant arrears and any other debts owed to the Trust.
- To provide support, advice and secure engagement to minimise the risk of an eviction due to non-payment of rent.

1.2 The payment of rent, (and where applicable, other charges) is a condition of the Tenancy Agreement and an obligation for all our tenants. Southway will promote a culture of rent payment when letting and managing our homes and in all communications with our tenants.

1.3 To support these aims, the Trust will:

- Create and maintain a performance culture where the payment of rent is acknowledged as a top priority for all staff and all tenants.
- Recover rent arrears in a firm but fair and consistent way with methods of collection being sensitive to individual tenant circumstances.

1.4 Provide a framework where early advice and support is provided to tenants, in particular those who may be more vulnerable and/or reliant on benefits, are affected by Welfare Reforms, in work poverty or cost of living issues.

- Provide a proactive Advice Service to tenants, including employment, benefits, debt, digital skills and money management advice, and work closely with other agencies having referral systems in place where these could assist our tenants.
- Help to prevent homelessness by ensuring proper support, guidance and advice is given to tenants in arrears, so that rent is paid and arrears are cleared without threat of losing their home

- Use eviction action only as a last resort and only when there is evidence of non- compliance on the part of the tenant, either to engage with Southway, or to make any consistent effort to pay their rent and arrears.
- Closely work alongside colleagues in other teams such as Asset Management and the Repairs service, to identify cases where there is a potential counterclaim for disrepair.
- Where issues of non-payment of rent are linked to outstanding repairs, Southway will work with colleagues to resolve issues. However, given the contractual obligation on the tenant to pay their rent, we maintain the right to continue collection activity and if necessary enforcement action will be taken.

1.5 Our approach to income collection is underpinned by 'Collect with Care' principles which are focussed on the following:-

- <u>Minimising legal action</u>
- <u>Focussing on advice and support that is accessible to all</u>
- <u>Greater awareness of mental health and the impact of debt on people's wellbeing</u>
- <u>Consistent and straightforward language throughout our communications reinforcing the offer of advice and support</u>

1.6 To achieve this staff will be respectful, professional, good at listening, empathetic and clear in their communications.

2. Prevention

2.1 The Trust will seek to prevent arrears from occurring in the first instance and will take prompt action to prevent arrears from occurring and accumulating.

New Tenancies

2.2 Southway complete a pre tenancy assessment when signing up all new tenants. This identifies any advice or support that needs to be put in place to help the prospective tenant pay their rent and therefore make the tenancy more sustainable.

2.3 All new tenants will be asked to pay an advance on their gross rent based on their chosen payment frequency, and we will support anyone who would struggle to do this.

2.4 Advice and support will be offered at the pre tenancy stage to ensure that benefit claims are made in a timely manner.

2.5 A home visit will be carried out with all new tenants no later than 6 weeks after the start of the tenancy and rent payments will be a key matter for discussion.

2.6 A number of accessible payment methods will be provided with tenants encouraged to make payments by Direct Debit and other online transactional methods. Advice and help will be offered to anyone who does not have a bank account.

Existing Tenancies (including Transfers and Assignments)

2.7 All tenant rent accounts will be closely monitored and proactive action will be taken at the point of a first missed payment.

3. Support for Tenants

3.1 Tenants with rent arrears, or at risk of falling into arrears will be provided with a range of support and advice. This includes Debt, Welfare benefits, employment and training, energy efficiency, digital skills and Money Management advice and budgeting. In addition, we will make all tenants aware of and assist with referrals, when relevant, to the independent places that they can receive alternative and further advice from.

3.2 When support and advice has been offered but not accepted by the tenant, or where existing repayment agreements are subsequently breached, officers will take appropriate action including legal enforcement, however this will always be as a last resort. The offer of support and advice will continue to be made whilst legal action is being taken.

3.3 When making re-payment agreements, a reasonable timescale by when the arrears should be repaid will be agreed, to ensure these are sustainable, and consider the tenants circumstances.

4. Legal Action

4.1 The Trust is required to adhere to the Pre Court-Protocol issued by the Ministry of Justice in October 2006. This sets out very clearly the practices that the Courts expect Registered Providers to adhere to in the pursuit of rent and arrears prior to taking Court action.

4.2 In addition, we will adhere to any Government guidance that would affect how we take legal action, including the decision to service a notice, the level at which it will be served and the associated notice periods. Officers must have referred to the engagement strategy before taking legal action.

4.3 Legal action will always be pursued where a tenant has failed to:

- Make contact and meaningfully engage with the Trust
- Cooperate in paying their rent and reducing their debt, or
- Maintain a repayment agreement to clear the outstanding debt within an agreed period of time.

4.4 A Notice of Seeking Possession (NOSP) will be served where arrears are a month or more unless a repayment agreement is in place. For Universal Credit cases action will not be taken in the first 6 weeks after a claim is made.

4.5 In certain circumstances, a NOSP may also be served when the arrears are lower than this amount, for example non-payment of under-occupancy charge over a period of time.

4.6 A NOSP may also be served at a higher amount for example a tenant makes a new claim for Universal Credit and is working with Southway officers to get the claim into payment as soon as possible.

4.7 Providing an agreement is reached when the NOSP is served no further action will be taken. The notice will remain in place for 12 months after it is served unless the arrears are fully paid off. However, if the arrears remain above the threshold at the 12-month stage (even if an arrangement is in place), the NOSP will be re-served to allow prompt action.

We will take court action if recovery methods have failed when arrears reach £1,000. Discretion may be applied where the arrears are below this level and circumstances warrant court action being requested, for example, non-payment of a non-dependant deduction over a period of time. For those cases where arrears accrued during the covid pandemic or as a result of cost of living issues and they are being managed by way of a repayment agreement, we are not taking court action, even if the balance is over £1000.Re-possession action will be taken as a last resort and only where there is clear evidence of non-engagement or a lack of effort to pay rent and arrears.

4.8 In the case of an outright Possession Order or a breach of a Suspended Possession Order (SPO) the Assistant Director or an Executive Director can authorise eviction action when appropriate.

Grounds for Possession

4.9 Dependent on the Tenancy Agreement that is in use, when rent is not paid certain Grounds for Possession included within Schedule 2 of the Housing Act 1988, can be used to take action:

- For Southway Assured Tenancies that commenced pre-January 2017, including any tenants who transfer from one Southway property to another after this time, Ground 10.
- For all Southway Tenancies from January 2017 Grounds ,10, and 11.
- Where the tenancy is a Starter Tenancy, Section 21 will be available for use.

5. Hierarchy of Debt

5.1 When a tenant owes Southway more than one debt, this will be repaid in the following order of priority:

- Current rent and arrears including service charges.
- Court and bailiff fees.
- Former tenant debts

5.2 Rechargeable repairs and other sundry debts are not included in this hierarchy as Southway expects these charges to be repaid in full at the point of request. In circumstances where a repair is for health and safety reasons and the tenant cannot pay in full, the tenant will be expected to make and maintain a payment agreement, regardless of any other payment commitments.

5.3 A process is in place for appealing any chargeable repairs raised,

6. Former Tenancy Debts (FTs)

6.1 A former tenancy debt is any debt left owing to Southway when a tenancy has been terminated. It can include rent arrears, service charges, rechargeable repairs, heating charges, court fees and any other sundry debts.

6.2 A formal repayment agreement will only be agreed with the former tenant where it is not possible for the debt to be cleared in full.

6.3 All tenants when terminating their tenancy are required to pay any outstanding arrears of rent and/ or any other debts owed to Southway and will be advised of the implications if these are not paid in full.

6.4 All tenants leaving Southway with a FTD of £1k or over will be placed on the Rehousing Review List and usually only removed once they have cleared the debt due/ agreed a partial repayment in line with write off policy, or the debt is historic / statute barred. However, recognising that this can negatively impact people who may present as homeless as they cannot afford to pay market rent, an annual review of the Review list will take place alongside a city wide appeals Panel.

6.5 Detailed procedures will ensure that Southway proactively recover Former Tenant's Debts.

6.6 Where the arrears are in respect of a deceased tenant, the action will be limited to contacting the next of kin or executor to claim against the estate.

6.7 Where a debt is uneconomic to pursue or attempts to trace the former tenant have failed and there is no prospect of recovery, the debt will be written off in accordance with Southway's Financial Regulations and Standing Orders, and Southway's Write Off Policy.

6.8 Where a debt has not been repaid and all attempts to recover it have failed, the account will be passed to a debt collection agency. This includes former tenant debts owed by current tenants where all efforts to engage have been unsuccessful. In addition, we also reserve the right to pursue these debts through the small claims court.

7. Equality and Diversity

7.1 An Equality Impact Assessment has been completed to ensure that all appropriate actions are put in place to support those tenants who have protected characteristics. An Action Plan is in place and will be monitored.

8. Performance Monitoring and Reporting

8.1 The Trust sets an annual target for overall rent collection. The Executive Group receives regular updates on performance and information relating to rent, arrears and sundry debt collection is included in reports to Board and Committee's as part of regular performance reviews.

8.2 Performance is benchmarked against that of other housing providers, and staff take part in rent forums and share good practice and ways of working.

8.3 The Trust regularly publishes its income data to tenants and promote its Rent First Every Contact Counts principles using case studies.

9. Procedures

9.1 The detailed process that staff must follow in the management of rent, arrears and sundry debts is set out in the Income Collection Procedure that includes for the collection of current and former tenant debts.

9.2 The procedure includes stages of intervention through rent escalation and these will be applied to all tenants.

9.3 The Assistant Director of Landlord and Community Services is responsible for ensuring that procedures are followed. Additional training and staff briefings will be provided as required.

10. Related Documents

- Income Collection Procedures
- Responsive Repairs Policy
- Community Investment Strategy
- Everyone Matters Customer Care Policy
- Single Equalities Scheme
- Rent Debt Write Off Policy
- Digital Inclusion Strategy
- Allocations Scheme Part 6

11. Policy Review

The Executive Director Landlord and Community Services is responsible for the policy and ensuring that it is reviewed at least every three years.

POLICY REVIEW HISTORY	
To be completed during each review	
Previous versions (version number – approved by – approval date – title if different) v1 – Shadow Board – 14/08/2007 – Rent Collection and Arrears Recovery Policy v2 – Board – 21/07/2009 v3 – Board – 30/07/2013 – Rent Collection, Arrears and Debt Recovery Policy v4 – Board – 22/11/2016 – Affordable Rent Collection, Arrears and Debt Recovery Policy V5 – Board – 18/01/2020 – Social and Affordable Rent Collection Policy V6 – Board - 15 May 2021 – Social and Affordable Income Collection Policy	
Date of last EIA:	
Review lead by:	Helen Sharples Assistant Director Landlord and Community Services
Main points or amendments made and reasons 1. Changing the levels of authority required to approve eviction action to now include the Assistant Director of Landlord and Community Services 2. Removal of any reference to Covid. 3. Referencing the process for appealing against rechargeable repairs 4. Removal of reference to Southway rewards 5. clarify hierarchy of debt in relation to payment of sundry debts	
Next review due:	**Q2 2027/28**
Approval level:	**People and Places Committee**