



**Clackmannanshire
Council**

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Chlach Mhanann

Clackmannanshire Council
Housing Service
Current and Former Tenant Rent Arrears Policy
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1. Scope of the Policy

Income from housing rent charges is the main source of income for Clackmannanshire Council's Housing Service and directly funds the various services that it provides. Effective rent collection is vital to ensuring revenue maximisation and the financial viability of the Housing Revenue Account.

Where a tenant has accrued debt of unpaid rent or charges during or at the end of a tenancy, Clackmannanshire Council will aim to recover any rent arrears from current or former Council tenants. The Council will employ a balanced approach to rent arrear recovery by recognising the needs and circumstances of individual tenants, and providing tenants who are struggling to pay their rent with information, advice and support with the aim of preventing rent arrears from escalating and sustaining successful tenancies wherever possible.

The Current and Former Tenant Rent Arrears Policy sets out the framework by which the Housing Service will work to prevent rent arrears from arising and to recover any rent arrears owed by current and/or former tenants. This approach safeguards housing service delivery and ensures that income can be reinvested into delivering high-quality housing services.

This Policy aligns with the Corporate Debt Policy and should be read in conjunction with Clackmannanshire Council's Scottish Secure Tenancy Agreement and Short Scottish Secure Tenancy Agreement.

2. Aims of the Policy

This policy aims to provide a framework to help:

- Prevent and minimise current and former tenants' rent arrears and debt;
- Provide tenants with relevant advice and information on available debt advice and income maximisation services;
- Promote tenancy sustainment and prevent homelessness from occurring due to rent arrears;
- Maximise the amount of tenant rent arrears recovered;
- Provide a clear, consistent and cost-effective approach to debt recovery process;
- Minimise the amount of debt that is required to be written off.

3. Legislative Framework

The Council will ensure that this policy adheres to all legislative requirements under relevant legislation and gives due regard to statutory guidance. Guidance may be sought in the following legislation:

- Bankruptcy and Diligence etc. (Scotland) Act 2007
- Debt Arrangement and Attachment (Scotland) Act 2002
- Homelessness etc. (Scotland) Act 2003
- Housing (Scotland) Act 2001
- Housing (Scotland) Act 2010
- Housing (Scotland) Act 2014

- Prescription and Limitation (Scotland) Act 1973
- Prescription and Limitation (Scotland) Act 2018

4. Tenant Responsibilities

As set out in Clackmannanshire Council's Tenancy Agreement, tenants are responsible for paying their rent in advance and on time. Where a joint tenancy agreement is in place, each of the joint tenants is responsible for paying the rent.

Where a tenant has applied for, or is in receipt of, Housing Benefit, they remain responsible for ensuring that rent is paid from the Housing Benefit received. Similarly, tenants claiming Universal Credit must ensure that their claims are submitted and evidenced correctly, and that any Housing Costs payments are made to the Council on time.

Tenants must inform their Housing Officer of any changes in circumstances that may affect their ability to pay their rent on time. Where the tenant has accrued rent arrears, they must repay any associated debts. The tenant may agree to a reasonable repayment plan with the Housing Service to repay the debt in instalments.

5. Rent Payments

In line with Clackmannanshire Council's Tenancy Agreement, the tenant must pay their rent in advance on or before the first day of each rental period. The rent will be charged on a weekly basis, based on a 48-week rent period, with 4 rent-free weeks. This charging model may be subject to change in future, proposed changes will be brought to Council for approval.

Tenants may pay their rent using the following methods:

- Bank Transfer;
- Standing Order;
- Other (there may be specific circumstances when an alternative payment method is able to be considered).

6. Prevention of Rent Arrears

At the start of the tenancy, the Tenancy Management Team, responsible for the day-to-day management of Council properties, will aim to prevent rent arrears from forming. As part of the tenancy sign-up, the responsible Housing Officer will aim to ensure that the tenant is aware of all of their responsibilities associated with paying the rent on time.

The Officer will inform the tenant of the rent amount, available payment methods, and provide advice and information on support to help with rent payments, including any available assistance with housing costs.

Early in the tenancy, the Housing Officer will aim to visit new tenants as part of the process of "settling-in visits". These visits are intended to help support people in feeling at home within their new property and to help identify any issues or concerns, including those relating to the tenant's financial situation, rent payments, or rent arrears.

The Officer will maintain regular contact with the tenant to address any emerging issues before they escalate.

As part of the tenancy sign-up, the Housing Officer will discuss the tenant's eligibility for Housing Benefit, Universal Credit, or other financial support. The Officer may provide the tenant with information and support in making a new benefit claim or updating existing ones, emphasising the importance of submitting information accurately and on time.

Tenants in receipt of Universal Credit may request, or be offered, the option of managed payments, where rent is paid directly to the Council from their benefit. This arrangement helps to reduce the risk of falling into arrears. In certain circumstances, the Council may apply for managed payments on behalf of the tenant without the tenant's express consent. This might occur where there is a significant risk of the tenant accruing substantial rent arrears, for example if the tenant has already missed multiple rent payments, has a history of arrears, and/or fails to respond to repeated contact attempts from a council officer.

The tenant should report any changes in circumstances that could impact their benefit entitlement, such as changes in income, household composition, or employment status in order to ensure that benefits are accurately calculated and to prevent any over/underpayments.

7. Management of Current Tenant Rent Arrears

The Council will regularly monitor tenants' rent accounts to ensure they do not fall into arrears. If a tenant falls into arrears, the Council will act promptly to address the situation, seek means to help to prevent the rent arrears from increasing, and work towards providing support to help with ensuring the debt is cleared as quickly as possible.

The Council will aim to take a fair, proportionate, and person-centred approach to the management of rent arrears, ensuring that any action complies with legislative and regulatory requirements. The focus will be on working with the tenant to sustain tenancies, prevent arrears from increasing, and reducing the risk of eviction and homelessness.

The Council will employ a staged approach to arrears recovery, starting with engagement and early intervention, and moving towards more formal action only when necessary. At each stage, tenants will be given the opportunity to resolve the arrears and will be offered advice, information, and guidance on managing their rent payments.

7.1. *Early Intervention and Provision of Support*

Where rent arrears arise, the responsible Housing Officer will make every effort to contact the tenant at an early stage. The Officer will ensure that relevant advice, information, and support are provided to help the tenant manage their rent payments.

Where appropriate, the Officer will work closely with other Council services and external partner agencies to provide appropriate support and signpost the tenant to services that can offer income and benefit maximisation, financial and debt advice as well as budgeting support.

The Officer will also explain the potential consequences of non-payment, including the Council's legal process for recovering rent arrears and, where necessary, the use of eviction action as a last resort.

7.2. *Repaying Debt*

When a tenant has accrued rent arrears, they should prioritise clearing the arrears balance in full. If the tenant is unable to repay the full amount immediately, they are encouraged to make regular lump sum payments to reduce the debt. If this is not feasible, the Council may agree to an affordable repayment plan based on the tenant's current financial circumstances. The plan should support the tenant in making reasonable, realistic, and consistent instalment payments over an agreed period.

The plan will be made in writing and will include level of current rent arrears and frequency of arrears payments. The responsible Housing Officer will monitor the agreement to make sure regular payments are being made. Where necessary, the Officer will also signpost the tenant to support agencies to help them manage their debt.

7.3. *Legal Action*

Legal Action will be considered only where all viable non-legal measures have been exhausted to address the rent arrears, and the tenant has:

- Failed to make payments;
- Refused to engage with the Council;
- Has not agreed to a repayment plan; or
- Has failed to adhere to an agreed plan.

Before pursuing legal action, the Council will ensure that pre-action requirements have been fulfilled and that all reasonable attempts to contact and engage with the tenant have been made. This will include a record of all contact and attempted contact to demonstrate that every opportunity was given for the arrears to be resolved without court involvement.

The Council may seek three different types of Court Action:

- **Action for Payment** to recover the rent arrears;
- **Eviction Action** to recover the possession of the house or;
- **Conjoined Action** to seek both recovery of the rent arrears and recovery of possession of the property

7.3.1. *Action for Payment*

The Council may initiate an action for payment to obtain a repayment decree from the Court to recover the rent arrears owed by the tenant. A repayment decree will be sought where there is a reasonable likelihood of recovering the debt. If decree has been obtained but payment has not been received, the Council is entitled to use a number of options to collect the rent arrears, including arrestment of wages and bank accounts.

7.3.2. *Eviction Action*

If the Council considers taking eviction action due to rent arrears, the Council will first ensure that pre-action requirements have been fulfilled as set out in the Housing (Scotland) Act 2010.

Where all other remedies have been exhausted and eviction action is due to take place, the Council will also advise the tenant of the homelessness duties that the Council has towards them.

For further information on eviction action, please see Clackmannanshire Council's Eviction Policy.

7.3.3. Conjoined Action

The Council may pursue combined action to recover both the rent arrears and repossession of the property. However, if the tenant repays their rent arrears and legal expenses in full before the process is concluded, it is likely that the Council will withdraw the eviction action. Furthermore, if the tenant lodges a Minute for Recall of Decree, the eviction action will be paused until the Court has heard the application.

8. Identifying and Paying Former Tenant Rent Arrears

When a tenant has given a notice to end their tenancy, the Council will aim to identify if there are any existing rent arrears and other tenancy-related debt still outstanding. The tenant will be advised of and given an opportunity to repay the outstanding debt before the end of the tenancy agreement.

Where the debt has not been identified or repaid before the end of the tenancy agreement, the Council will aim to obtain a forwarding address and/or email address of the former tenant.

The former tenant will be sent a letter and given an opportunity to clear the debt in a single payment or in instalments, following agreement of an affordable repayment plan.

Failure to pay for current or former tenant rent arrears may result in the suspension of any future applications for Council housing in line with Clackmannanshire Council's Allocations Policy and the Housing (Scotland) Act 1987.

9. Recovery of Former Tenant Rent Arrears

If an affordable repayment plan has been set up, the Council will monitor it to ensure that the former tenant pays the instalments on time.

If the former tenant does not agree to or does not adhere to a repayment plan, the Council may pass the case to a debt collection agency to recover any outstanding debt.

Where a payment decree has been granted against the exiting tenant, the Council may pass the case to a debt collection agency to recover the rent arrears and the associated fees.

If the former tenant has set up a Debt Payment Programme under the Scottish Government's Debt Arrangement Scheme to repay any debts, including rent arrears, the Council will monitor the arrangement to ensure that the former tenant makes the appropriate repayments.

10. Write-off

While Clackmannanshire Council aims to minimise the amount of rent arrears that require to be written off, it is recognised that some debts will be irrecoverable. In line with Clackmannanshire Council's Corporate Debt Policy and Prescription and Limitation (Scotland) Act 1973 (as amended by the 2018 Act), the Council may write debts of unpaid rent off in the following circumstances:

- Where the former tenant has been sequestered;
- Where the former tenant cannot be traced and previous contact attempts have failed, the case will be monitored for five years, after which, any rent arrears will be written off;
- Where the former tenant is deceased, there is no other person liable for the debt, and no estate (or an inadequate estate) exists to recover the debt from;
- Where it is not economical to pursue the debt further.

11. Equal Opportunities and Diversity

Clackmannanshire Council is committed to the elimination of unlawful discrimination, advancing equality of opportunity and fostering good relations between people.

The Council believes that equality of opportunity should be a guiding principle in all of its activities. The Council aims to ensure that its commitment to equality is embedded in all council services and in the organisations that it funds.

In accordance with the Equality Act 2010, the Council is actively working towards the elimination of policies and practices that discriminate unfairly on grounds including age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race including colour, nationality, ethnic or national origin; religion or belief; sex; and sexual orientation.

12. Privacy Statement

Clackmannanshire Council must adhere with its legal obligations under Data Protection Legislation as set out in the Data Protection Act 2018 and UK General Protection Regulation (GDPR).

In order to provide the required and/or requested services, the Council will collect, store and process relevant personal information or data.

Personal information may also be shared with other partner agencies and organisations.

Personal information will be kept securely, as long as required by law and/or by specific service requirements. Once the data is no longer required, it will be securely disposed of. The Council has a Record Retention Schedule which sets out the period of time and reasons for keeping particular records. The Retention Schedule is available on request.

Under the Data Protection Act 2018 and the Freedom of Information (Scotland) Act 2002, individuals have the right to access personal information and data held about them by

Clackmannanshire Council as well as the right to access information from records held by the Council.

To submit a Subject Access or Freedom of Information request, please follow [the link](#).

To make a complaint in relation to the Council's handling and processing of personal data and information, please contact the [Information Commissioner's Office](#).

For further information on Clackmannanshire Council's data protection practices, please visit the Council's [Data Protection Statement](#). For the Council's Data Protection Policy, please follow the [link](#). For further information on freedom of information laws, please visit the [Scottish Information Commissioner webpage](#).

13. Complaints

If the tenant is dissatisfied with the provided services and/or the standards of service, please follow the Council's Complaints Procedure. Complaints can be made in person, in writing, by email or online. For further information on the Complaints Procedure and how to make a complaint, please visit the [Council's Complaints Procedure webpage](#).

If the tenant remains dissatisfied with the final decision or the way the complaint has been handled following the Council's Complaints Handling Procedure, they can make a complaint to the Scottish Public Services Ombudsman (SPSO) by completing a [complaints form found online](#) or calling on 0800 377 7330.

For further information on how to make a complaint to SPSO, please visit the [SPSO website](#).

14. Monitoring and Reviewing

The policy will be continuously monitored to ensure that it is performing efficiently against the aims set out in the policy.

The Council will review and evaluate this policy every 3 years to ensure the adherence to the relevant legislation and statutory guidance as well as changes in organisational practices and policies.