

Operational Procedure 50

SHETLAND ISLANDS COUNCIL

RENT COLLECTION AND ARREARS PREVENTION PROCEDURES



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Introduction

This details the procedure to be followed to prevent arrears occurring and what action to take if a tenant falls into arrears with their rent payments. The procedure has been revised following new duties that have arisen under the Housing (Scotland) Act 2001.

Objectives of Rent Arrears Prevention

- To ensure the Council collects all sums due
- To offer early action and advice
- To ensure rent arrears are prevented from arising
- To identify risk cases and effectively manage them
- To prevent homelessness, and repeat homelessness occurring
- To raise legal action when necessary

New Tenants and prevention of arrears

The best way of dealing with rent arrears is to prevent them occurring in the first place. It is essential all that new tenants are told of the importance of paying rent and of the methods by which they can pay. This information should be given to tenants when they sign up and collect their keys. Tenants should also be informed of the availability of Housing Benefit and the need to apply promptly and provide information to back up their claim as soon as possible.

New tenants are seen by their area Housing Officer and advised of the key obligations of the landlord and tenant, before they sign their Tenancy Agreement.

The following information should be given to new Tenants when they sign up:

- A copy of their Tenancy Agreement – Housing Officer
- A Tenant's Handbook – Housing Officer

They then go to Revenues where they are seen by Rents, Housing Benefits and Local Taxation before paying a fortnights rent in advance and collecting their keys. The Citizens Advice Bureau can also be seen on site at this time.

The new tenant sign-up checklist (appendix A) should be completed and signed by the tenant(s) at the end of their sign-up interview at Revenues.

Methods of Payment

The Council offers several ways the tenant can make their rent payments. They are as follows: -

- Cashiers Office, Charlotte House.
Payments can be made in person by coming into the office. Or a cheque can be sent in the post. Payments can also be made over the phone using a Debit / Credit card.
- Allpay payment card.
This card can be used at Post Offices and several stores and service stations in Shetland. It can also be used at the Cashiers Office at Charlotte House.
- Direct Debit
Through the tenants Bank or Building Society account, forms are available from Charlotte House.
- Bank Standing Order
Through the tenants Bank or Building Society account, forms are available from Charlotte House.
- Internet Payments
Available to all tenants who have access to the Internet.
- Deductions from Wages
Available to all tenants who are employed by Shetland Islands Council.
- DWP Arrears Direct
Available to tenants on certain benefits who have rent arrears.

Arrears Recovery

Where arrears do occur it is essential to identify these cases as soon as possible. Recovery action commences as soon as two weeks arrears have accrued.

Once identified, it is essential that the problem is dealt with quickly.

Direct contact with the tenant at an early stage is most desirable, as it allows the officer concerned to identify any problems that may be preventing the tenant from making regular payments.

Problems should be dealt with in a sympathetic and systematic matter.

Continuous and regular monitoring of each case will allow officers to take the necessary action at the earliest opportunity.

Close liaison between Finance, Housing and Legal is essential when dealing with arrears. This will take place through regular contact between officers on a case-by-case basis and through a monthly Recovery Officer, Housing Officer and Legal Services meeting.

The purpose of the monthly meeting is to:

- share information, experiences and good practice in relation to individual cases
- review and monitor legal action cases including action plans
- review and monitor policy and procedures
- ensure performance standards are being met

ARREARS INTERVIEWS

Interviewing tenants is an important part of the arrears recovery procedure and the attitude and approach of the officer carrying out the interview can contribute to the success or failure of the process. The chief aim of the interview should include the following: -

- To investigate the problem, establish a common interest in helping the tenant to clear the arrears and encourage the belief that repayment can be achieved.
- To consider the various sources of help available and if necessary refer tenants to an appropriate agency e.g. Citizens Advice Bureau, Social Work or the DWP.
- To negotiate a realistic repayment plan with the tenant and emphasize the importance of adhering to the agreement.
- Establish the make up of the household and make a note of home and mobile phone numbers and also the tenant's preferred contact method.

ARREARS PROCEDURES

Recovery Procedures

The IBS rents system will produce a First Reminder ([RA001](#)) if a tenancy is a fortnight in arrears. This will be sent as a matter of course and only held back if the Recovery Officer is aware of serious problems within the family, for example a death in the household.

If the tenant has not made contact or brought the account up to date, a fortnight later a Second Reminder ([RA002](#)) will be produced. A visit sheet will also be produced as will a memo to Social Work ([RA003](#)) asking them whether they have any concerns about possible legal action.

The Second Reminder will be issued unless the Recovery Officer has become aware of problems with the family or has assisted them with a Benefit claim that is still to be assessed.

The Recovery Officer will visit the tenant within the fortnight in an attempt to make an agreement.

The Recovery Officer should make a diary entry on the rent system with as much information as possible and detail what the agreed instalments are.

The Recovery Officer should then monitor the account on a fortnightly basis.

If after another fortnight the tenant has still not responded or the agreement has not been kept, a Final Demand ([RA004](#)) will be produced. This will also produce the following, a visit sheet, memo to Legal ([RA005](#)) requesting them to send a demand letter ([RA006 – DEM1](#)), memo to Housing ([RA007](#)) advising them of the situation and requesting that the Tenancy Agreement is sent to Legal.

Recovery Officers will deliver the Final Demand by hand, and again an attempt to make an agreement for payment will be made.

Housing Service Procedures

On receipt of the memo ([RA007](#)) from Finance, Housing staff will do the following: -

The Housing Assistant will copy the memo and pass one copy to the named or area Housing Officer

The Housing Assistant will forward a copy of the Tenancy Agreement to Legal within one week of receipt of [RA007](#)

The Housing Officer will confirm if the tenant is in general needs or temporary accommodation

If the tenant is living in temporary accommodation, the Housing Officer will check the Council's duty towards the person and find out if the person is receiving support from Housing Outreach. If not the Housing Officer will consider whether a referral to Outreach is appropriate at this stage

The Housing Officer will then check the tenant's house file and / or housing application or homeless application for family composition, in particular for any details of qualifying occupiers and any relevant information

This could include any concerns or social issues which may make the tenant or any member of the tenant's household vulnerable for example because of dependent children, pregnancy, old age, mental illness, learning disability, physical disability, if they are a young person, chronically sick or if there is

alleged violence from within household or known alcohol or drug abuse within household

The Housing Officer should note any changes in circumstances, which may explain non-payment of rent e.g. job or other income loss, family bereavement, holiday period, change of household composition i.e. partner moving out, children moving in

If the tenant is living in general needs accommodation, check if they, or any member of their household has a current housing application

If the tenant has a current housing application, the Housing Officer should assess under the terms of the suspension policy, whether or not the applicant should be suspended from the housing list and advise the applicant in writing that this has been done, and the action needed for their application to be eligible for allocation again

The Housing Officer should advise the Recovery Officer and Legal Services by email within 1 week of receipt of the memo ([RA007](#)) from Finance, of the household composition and any qualifying occupiers, relevant tenancy issues, any recent changes in circumstances and the name of the Outreach Worker

The Housing Officer should also advise the Recovery Officer if the tenant has or may have a priority need or is vulnerable in relation to the Council's duty under the terms of homelessness legislation and confirm whether any application has been suspended from allocation

The e-mail to the Recovery Officer should be copied to the Service Manager - Housing & Property

The Housing Officer should place a copy of the e-mail in the house file, housing application and / or homeless application. The e-mail should be copied to the tenancy notes folder or the homeless notes folder on the Orchard System

Legal Service Procedures

Legal Services will issue the DEM1 ([RA006](#)) by recorded delivery within 1 week of receipt of the memo ([RA005](#)) from Finance and following receipt of the e-mail from Housing Services.

Case Conference

Following delivery of the demand letter from Legal Services, and if a Notice of Proceedings is being considered, the Housing Officer should then write to the tenant, inviting them to attend a case conference ([RA008](#)).

A Case Conference would be considered in cases where there is a high volume of arrears, a recurring problem with regular rent payment, or identified

vulnerability and / or support issues. The Recovery Officer would make this decision in consultation with the Housing Officer.

The purpose of the case conference is to discuss and agree an appropriate action plan to tackle the arrears effectively.

If a case conference is to be held, it should be held within 4 weeks of the demand letter from Legal Services being issued.

The aim of the case conference is to reach an agreement for payment of the arrears with the tenant and find out if any additional support is needed to ensure the tenant continues to pay both their rent and the arrears regularly and can successfully sustain their tenancy.

A Senior Officer from either Housing or Recovery should chair the case conference and arrange for a minute taker to be present, or nominate someone to take action minutes.

The chair should ensure that all relevant agencies are represented at the case conference.

Required attendees: -

Recovery Officer

Housing Officer

A representative from Legal Services

Estate Manager – Housing or Service Manager - Housing & Property or
Income and Recovery Manager

Any other appropriate agency identified at initial enquiry stage

- Social Worker
- Outreach Worker
- Local Area Network Support Co-ordinator – where under 20

The case conference will follow a standard format: -

- Introduction by Chair – ensuring all parties present know each other
- Recovery Officer provides a summary of the case
- Housing Officer provides an explanation of the implications of eviction and the homeless legislation and the implications of rent arrears for future housing applications in any authority area
- The representative from Legal Services explains the consequences of not paying their rent
- Interventions considered, including whether legal action is considered appropriate should voluntary measures fail
- Action Plan (RA009) agreed with named officers responsible for tasks and clear deadlines

A key worker may need to be identified to carry out a lot of the actions (e.g. someone who already has a good relationship with the tenant – a Social Worker; local area network co-ordinator, Housing outreach worker; etc)

The minutes will be prepared as action minutes ([RA009](#)) and circulated only to those named in the Action Plan and to Legal Services. The Housing Officer will retain the original on the house file or homeless application file.

Following the case conference, the first action will always be for the Key Worker (or other appropriate officer) to visit the tenant to discuss the agreed action plan and to hand deliver a letter confirming the action plan in writing ([RA010](#)). If a visit is not possible, the agreed action plan should be sent recorded delivery and by ordinary post to the tenant within one week. The person posting the plan, should ensure the recorded delivery slip is returned to the file.

Monitoring of Action Plan

The Recovery Officer will monitor the action plan. The Recovery Officer should be in regular contact with each person responsible for an action to ensure that the action is being progressed. Each agency is responsible for keeping the Recovery Officer informed of actions. Housing Officers should record any contact on Orchard.

The Recovery Officer will assess whether the action plan is working to effectively tackle the rent arrears. If there are problems with the implementation of the action plan, these should be highlighted to the Income & Recovery Manager or the Service Manager, Housing & Property.

Outcome 1

Tenant does not attend case conference – arrears are paid or reduced

The case will be closed if the arrears are paid off or are reduced by regular payments, which are maintained.

A letter ([RA011](#)) should be issued to the tenant confirming that no further action will be taken at this time and reminding them to contact the Recovery Section or Housing if they need any help in the future.

Outcome 2

Tenant attends the case conference – arrears are paid or reduced

The case will be closed if the arrears are paid off or are reduced by regular payments, which are maintained.

The Recovery Officer will continue to work with the officers responsible for the agreed actions to ensure that the support continues until it is deemed appropriate to start withdrawing.

Once the Recovery Officer decides that it is appropriate to withdraw the support to the tenant, a meeting will be held with the tenant to discuss withdrawal of the support.

The Recovery Officer and / or another appropriate officer will meet with the tenant to discuss whether the tenant still feels support is required to prevent

him / her getting into arrears again ([RA012](#)). If necessary, the support will continue as long as necessary with the Recovery Officer reviewing the situation at regular intervals.

It may be appropriate in this situation, to pass the monitoring of the case over to the area Housing Officer, once the arrears are paid off or have reduced to an acceptable level.

Outcome 3

Tenant does not attend case conference / attends case conference – arrears continue to accumulate

In this situation, the next step is to issue a **Notice Of Proceedings for Recovery of Possession**, which Legal will produce. This is the beginning of the Eviction process.

Recovery Officers will deliver the Notice ([RA013](#)) and the NOP Advice Sheet ([RA014](#)) to the tenant and any qualifying occupiers if known. Legal will copy the memo ([RA015](#)) regarding the delivery to Housing.

On receipt of the memo advising of the delivery of the NOP the Housing Officer should enter the relevant information in the tenancy or homeless notes folder ¹ on the Orchard System.

The NOP becomes active 4-6 weeks after delivery. The NOP means the Council can raise court action to end a tenancy within 6 months of the date of the NOP becoming active. The summons must be properly served on the tenant before the NOP expires.

Although no further Legal action (other than Abandoned Tenancy procedures if the circumstances warrant it) can be taken between the delivery of the NOP and it becoming active it is essential that attempts continue to be made to obtain payment of the rent and arrears.

Following the case conference and once the NOP becomes active, the Income and Recovery Manager will make a decision, taking into account the action plan and the efforts made to resolve the issue in the intervening period, as to whether court action is instructed for recovery of the property and the outstanding amount. This decision will be made after discussion with the Recovery Officer, Legal Services and Housing Services, taking into account the families' situation and what attempts they have made to solve the problem.

In relation to tenants, who may have a priority need under the terms of the legislation, it may be thought prudent to make more attempts to reach an agreement, in particular if there are small children or illness or other special circumstances involved.

¹ Select property, click on info button, select notepad maintenance, person notes, 4 property lettings & void control, add notes

The Recovery Officer will ensure that the Housing Officer is kept updated of any progress or developments if the case proceeds to further action.

If court action is commenced, the tenant will be advised by the Recovery Officer that they will be receiving documents from the court and to contact Recovery or Legal Staff if in doubt as to what to do next.

The tenant should be advised to contact SICAB or their own solicitor for legal advice, and that if a decree is granted, the only way the eviction may be stopped is if the arrears and expenses are paid in full.

The tenant should also be advised to contact Housing Services to make a homeless presentation if they do not have anywhere else to move to if the decree is granted.

SHERIFF COURT HEARING

The outcome of the Court Hearing is likely to fall into one of the following categories: -

- Arrears and expenses paid before the Court Hearing – Case dismissed
- Arrears paid before the Court Hearing, but not expenses – Decree for expenses only
- Genuine offer to clear arrears by instalments – The Council will seek a decree for payment of the arrears by instalment and either dismiss the recovery of possession or have it continued for a set time to see if the tenant continues to pay their arrears.
- Decree for Eviction and our expenses.
- The tenant appears in court and either has lodged or lodges defences. In these circumstances Legal will liaise with the Income and Recovery Manager and the Service Manager – Housing & Property to determine what evidence we have to lead to prove the council's case.

Legal will advise Finance and Housing of the outcome.

If a decree is not granted, a meeting should be called to discuss the outcome and any recommendations / instructions issued by the Sherriff. The process will revert to the case conference stage of the procedures and another action plan will be agreed.

EVICTION DECREE

Legal Services would notify the tenant in writing ([RA016](#)) and the Service Manager – Housing & Property by email of the Sheriff's decision on day of hearing. The tenant should be advised to contact Housing Services to make a homeless presentation if they do not have anywhere else to move to. Legal Services will also enter a note on the IBS Rents System confirming the date the Sheriff ended the tenancy.

The Service Manager – Housing & Property will advise the relevant officers in housing and will enter a note on the Orchard Housing Management System confirming the date the Sheriff ended the tenancy.

The Housing Officer should create the void on Orchard at this time, as 'No Notice Received', and with the void reason of termination – court order. The expected termination date is the date the Sheriff ended the tenancy.

The Housing Officer should also notify the rent section that a decree has been granted but no action should be taken by the rent section at this time to end the tenancy on the rent system.

The tenant then has two weeks to appeal the Sheriff's decision. The appeal should be in writing to the Sheriff. The tenant should seek advice from their own solicitor or SICAB or the Sheriff Clerk in order to make an appeal.

A decree cannot be enforced until the Extract Decree is received from the court. Legal services receive the Extract Decree approximately 2 weeks after decision by Sheriff.

In cases where Decree for Eviction is obtained, a decision will be made by the Income and Recovery Manager in consultation with Legal Services and the Service Manager – Housing & Property whether to renew the tenancy or not.

This course of action could be considered in exceptional circumstances e.g. household with dependent children, severe mental health issues that reach a crisis point because of the eviction process.

If the tenancy is to be renewed, this decision and the reasons for it should be recorded in a file note and the Housing Officer should update Orchard to reflect the creation of a new tenancy. The Rents section should be notified of this change. Arrangements should then be made to meet with the tenant and go through the obligations of their tenancy agreement as per the sign up procedures detailed in Appendix A.

Eviction Process

When a decision has been made to evict, the Income and Recovery Manager will instruct Legal Services to proceed with the eviction. Any approach from the tenant e.g. a homeless presentation, will be notified to Legal Services.

Legal Services will instruct the Sheriff Officers to arrange a date for the eviction and ask them to notify the tenant of the date and time it will be carried out. The Sheriff Officers are required to give a minimum of 2 weeks notice of

the eviction. The Sheriff Officers will advise Legal Services of the date and time of the eviction.

Once the date is confirmed, Legal Services will advise the Recovery and Housing Officers, and request that Housing arrange for a locksmith to attend to change the locks.

The Sheriff Officers have a duty to place a notice in the property stating that an eviction has occurred. This notice can be removed once the locks have been changed.

The Sheriff Officers will not visit if the tenant moves out voluntarily before the Sheriff Officers visit date. This means that the notice is not placed in the property, and the costs to the former tenant are minimised.

Once the locks have been changed and the property secured, if the tenant has not moved out voluntarily, housing staff will take an inventory of any items left in the property. The inventory should include details of the condition of items where appropriate and it should be signed and dated by two members of Council staff.

Arrangements should be made for all items to be placed in secure and dry storage (a purchase requisition should be completed and passed to Housing Finance).

The Housing Officer will advise the former tenant that their property is in storage and will be held for six months. The letter ([RA017](#)) should confirm how they could retrieve their property, and that it will be disposed of if not collected. All storage charges should be recharged to the former tenant.

Any unclaimed items should, after a period of six months from the date of end of tenancy, be sold or disposed of as appropriate. The appropriate standard forms should be used to record details of the sale or disposal of property and all actions should be carried out in consultation with the appropriate Estate Manager. Any monies received from sale of property should be offset against any rent account debt.

If the tenant has moved out of the property, any items left in the property will be disposed of in line with the standard void procedures. A record should be kept detailing items disposed of.

The Housing Officer will update the void on Orchard and enter the termination date (date the Sheriff granted the Decree). They will also notify the Rents Section that the tenancy has been terminated, the date the locks were changed and provide a forwarding address if known.

If the ex-tenant requires access to the property they will only be able to do so with the agreement of housing staff, who will accompany them to the property and retain the keys at all times.

The eviction may be cancelled, after discussion between Finance, Legal and Housing, but only if the arrears and expenses are paid in full. All systems should be updated to reflect this decision and the Rents Section should be notified that the eviction would not be going ahead.

If the tenant who has been evicted fails to make agreement for payment of the arrears and the decree includes a claim for payment of rent arrears further action can be taken to arrest wages, freeze a bank account or place an exceptional attachment order on possessions owned by the tenant. If this is required then Finance or Housing must find out details of the tenant's employment or bank account so that Legal can instruct Sheriff Officers.

HOMELESS ASSESSMENT

If the former tenant presents as homeless, the homeless form should be completed in full and an assessment made as quickly as possible by the duty Housing Officer in line with the Council's Homeless Procedures. The applicant should be advised in writing of the Council's decision within 28 days.

All homeless applications will be assessed on an individual basis, the following is provided as examples only. Further guidance can be found in the homeless procedures.

Outcome 1

If the tenant is threatened with homelessness unintentionally and is in priority need, the Council has a duty to take reasonable steps to secure that accommodation does not cease to be available.

The duty Housing Officer should, with the tenant's consent, discuss the assessment decision with the tenant's area Housing Officer, the Recovery Officer and Legal Services.

It may be appropriate to refer the household to SICAB for further debt advice and / or Social Work for an assessment e.g. if the tenant has dependent children

This duty does not affect the Council's right to secure vacant possession of accommodation however the Housing Service will aim to prevent homelessness occurring whenever possible

Outcome 2

If someone is threatened with homelessness and is not in priority need, or is in priority need but threatened with homelessness intentionally, the duty Housing Officer should provide them with advice and assistance.

The purpose of this advice and assistance will be to support attempts by the applicant to secure that accommodation does not cease to be available for his or her occupation.

The accommodation obtained for a person threatened with homelessness need not be his or her existing accommodation, although in practice this will often be the best option; assuming that it is reasonable for the applicant to continue to occupy it.

The Housing Service will consider what duties the Council would have towards an applicant and act quickly to prevent homelessness actually occurring where it is apparent that the loss of the applicant's present accommodation cannot be avoided.

In relation to outcomes 1 and 2, as noted above in cases where Decree for Eviction is obtained, a decision will be made by the Income and Recovery Manager in consultation with Legal and Housing whether to renew the tenancy or not.

If the tenancy is to be renewed, this decisions and the reasons for this decision should be recorded in a file note and the Housing Officer should update Orchard to reflect the creation of a new tenancy. Arrangements should then be made to meet with the tenant and go through the obligations of their tenancy agreement as per the sign up procedures.

Even after a decision to evict has been taken, the eviction may be cancelled, after discussion between Finance, Legal and Housing, but only if the arrears and expenses are paid in full, or if the tenant moves out voluntarily.

It is preferable for any homeless presentation and assessment to be made before an eviction takes place, but if it doesn't it is likely that one of the following outcomes will be reached.

Outcome 3

If the former tenant is unintentionally homeless, in priority need and has a local connection, the Council has a duty to provide temporary accommodation until suitable secure accommodation is available

Outcome 4

If the former tenant is intentionally homeless and in priority need or unintentionally homeless but not in priority need the Council has a duty to provide temporary accommodation for a reasonable period (in practice this is usually two months) and give advice and assistance.

The purpose of this advice and assistance is to support attempts by the applicant to secure alternative accommodation.

Prevention of recurrence of homelessness

In considering resettlement, the Housing Service and partner agencies should bear in mind the key principles set out by the Homelessness Task Force:

- Solutions to homelessness should be based on a thorough assessment of the household's needs, including support needs. The specific needs of families with children should not be overlooked.

- The objective should always be to find sustainable solutions, which enable homeless people to be reintegrated back into the community, and which are likely to last in the longer term.
- Joint working is crucial in addressing complex or multiple needs.
- Provision of social work advice and assistance/community care and other support issues.

In addition to a general duty to promote social welfare in making available advice, guidance and assistance, social work departments have an emergency power under section 12 of the Social Work (Scotland) Act 1968 to assist persons in need in certain circumstances.

Section 12 enables local authorities to give cash to, or in respect of, any person aged at least 18 years who is in need within the meaning of the Act, and requiring assistance in exceptional circumstances constituting an emergency, and where to do so would be more cost effective than giving assistance in another form. Local authorities should have regard to other means of assistance available to the person in need, and to whether any assistance given should be repaid.

Section 140 of the Local Government Etc. (Scotland) Act 1994 gives local authorities discretionary powers to assist voluntary organisations to provide for individuals. This can also include assistance in asserting these rights or fulfilling these obligations, either by making or receiving communications on the client's behalf, or by making representations.

Independent Living Skills

Some homeless people, particularly young people or those having spent substantial periods sleeping rough or in temporary or institutional accommodation, may need to learn or relearn basic independent living skills, including budgeting, if they are to sustain their tenancy.

In such cases a referral should be made to the Housing Outreach Service, who will carry out an assessment and draw up a support plan to teach these skills.

Housing officers should ensure that applicants placed in accommodation have advice on the running costs of that accommodation, including the full costs of running that property (heating and lighting costs, repairs and maintenance liabilities, service charges, and any initial costs such as rent deposits or rent in advance) and advice on meeting these costs, including advice on any housing or other benefits to which they may be entitled. Travel costs to employment, education, or training may also be relevant in some cases.

FORMER TENANT ARREARS (FTA'S)

Former Tenant Arrears are just as important as current rent arrears and should be treated accordingly.

Again it is important to identify cases at the earliest opportunity, preferably before the tenant has left the property. It is therefore essential that when a tenant gives up their tenancy certain measures are taken.

NOTICE OF INTENTION TO TERMINATE

Most tenancies will terminate by a tenant giving notice. The tenancy must end on a Sunday. Rent liability will be for the full 28 days up to the termination date.

Intention to terminate a tenancy can be received in various ways from the tenant:

- By phone to the Housing Office
- By letter or e-mail to the Housing Office
- In person at the Housing Office

The 28 days notice period will begin only on receipt of written evidence. This could be by letter or the completed 'Vacating Your Property' booklet (appendix B).

The notice should include:

- Tenant/s name and address
- Date of actual leaving
- Forwarding / contact address and telephone number
- The tenant's signature – if the tenancy is in joint names, both tenants must sign the notice

On receipt of the completed 'Vacating Your Property' booklet or written termination, the Housing Assistant will notify the rents section, and request details of the outstanding balances of rent / Council Tax / rechargeable repairs to ensure payment before the outgoing tenant moves.

The Housing Assistant will acknowledge the notice of termination within 1 working day.

The acknowledgement will contain:

- Confirmation of the termination date
- The amount of rent due to be paid to the date of leaving
- A reminder that the rent account must be cleared up to the termination date
- A reminder to notify utilities
- Confirmation of the pre-termination inspection date
- A claim form for any improvements qualifying under compensation regulations
- Information where to delivery keys to, and by when
- Advice on what to do if the notice to terminate the tenancy is to be withdrawn
- Advice on completing a new application form within 4 weeks if they wish to be considered for Council housing after they move

In cases where a debt is due the Housing Assistant will also inform the Recovery Section.

Where possible, a Recovery Officer will arrange to visit the tenant and negotiate an arrangement to pay or explain the tenant of the consequences of not paying these debts e.g. court action, possible ineligibility for allocation of another house in the future.

The Recovery Officer will aim to recover the debt/s or confirm the repayment agreement in writing before the tenancy ends.

HANDING IN THE KEYS

The outgoing tenant must return two sets of keys for each door, properly labelled to the Housing Service by the date specified in the acknowledgement letter.

Keys are frequently posted through the letterbox at the Housing Office, but where possible, if the tenant returns the keys to Housing during office hours, the following checks should be made,

- Has the information listed above been collected and noted? If not, the Housing Assistant should complete a 'Vacating Your Property' booklet with the outgoing tenant
- Is the rent paid up to the date of leaving? If not advise the tenant and attempt to collect the full amount or make an instalment agreement.

Further information on terminating tenancies and handing in keys can be found in the Council's Void Policy at

www.shetland.gov.uk/housing/policyandprocedures/operationalprocedures

ARREARS PROCEDURES FOR FORMER TENANTS

As soon as they are advised of the termination date by Housing, the Rent Section will:

- Check whether any housing benefit payments are due
- Whether any housing benefit reclaims are to be made
- That rent has been charged to the correct date

When Rents are happy with the account they will issue a Final Statement of account.

Where contact could not be made before the tenant moved out, a month later the Income and Recovery Section will issue a Final Reminder and attempt to make contact and make an instalment agreement.

If there is no response, consideration will be given to whether Legal action is appropriate. As any action is expensive and time consuming we will take into account the following

- Is the total debt over £150
- Do we have employment and or bank details; there is no point in obtaining Decree if we can't use it.
- Where are they living, are they still within Shetland.
- Are they still within Scotland

Depending on the answers to the above questions several actions may be appropriate:

- No action required by Legal, i.e. debt less than £150.
- Legal send letter asking for payment but take no further action
- Legal send letter and raise action for recovery of the arrears
- If no response from tenant, Legal will ask for Decree
- Once Decree is granted, the tenant will be advised and again asked for payment.
- If there is still no response, earnings or Bank arrestment will be attempted.
- Writing off the debt will be the final option if all of the above fails.

SUSPENSION POLICY

Where former tenants with rent arrears later reapply for housing, then they should be advised that if a tenant or former tenant has any outstanding debt to do with their tenancy or former tenancy, the Council may suspend their application until;

- the amount owed is less than the equivalent of one months rent of the tenancy; or
- an agreement has been made with the landlord for paying the debt; and
- the agreed payments have been made for at least 3 months; and
- the tenant or former tenant is continuing to make such payments.

Housing Services will disregard outstanding debts, which are more than 5 years old.

Housing Services will not suspend an application where overpayments of housing benefit were clearly a result of errors made by housing benefit administration.

Housing Services will not suspend an application for mortgage arrears, council tax arrears or other unpaid debts not directly relating to a tenancy

Debt related to a tenancy includes:

- Service charges
- Rechargeable repairs
- Cleaning a house, which was not left in clean, tidy and in good decorative order
- Costs of clearing an abandoned house and storing furniture

- Charges for heating in some circumstances
- Factoring or property management charges

Debt related to a tenancy does not include:

- One-off charges
- Garage rent

Housing Service will not suspend homeless people for debts left in temporary accommodation, if the temporary accommodation was short term such as bed and breakfast accommodation or hostel accommodation where no tenancy was created.

Housing Services will also not suspend homeless people for debts left in temporary accommodation where the Council has a duty to provide permanent accommodation under homelessness legislation.

Housing Services will consider each applicant's circumstances on an individual basis. In exceptional circumstances, for example where the debt accumulated as a result of genuine hardship and financial difficulties, Housing Services will not suspend your application. In reaching this decision account will be taken of the extent to which the debt has been a result of wilful non-payment or action on the part of the former tenant and the extent to which accumulation of debt is fall-out from other problems, which the former tenant has faced. Housing Services will also take into account the consequences of suspension from the housing register.

Housing Services will review suspensions for rent arrears every six months.

Further information on the full suspension policy can be found in the Council's Housing Allocation Policy at www.shetland.gov.uk/housing/policyandprocedures/operationalprocedures

For former tenants with the Shetland Islands Council, the Housing Officer should contact the Recovery Section directly, rather than checking the rents system in case the debt has been written off.

ROLES AND RESPONSIBILITIES

Recovery Section:

Identify that arrears have arisen;

Make initial contact with tenant;

Monitor account and in particular instalment agreements;

Decide whether an NOP should be issued, in consultation with Housing and Legal;

Decide in consultation with Legal whether court action for eviction should be started;

Decide, in consultation with Legal and Housing whether the eviction should be carried out.

Housing:

Check tenants circumstances and send tenancy agreement to Legal;
Update Housing records when NOP issued and consider how to prevent homelessness;
Visit tenants to discuss arrears as required;
Follow former tenancy procedures and pass information promptly to Recovery and Rents sections;
Decide with Recovery whether a new tenancy can be given rather than eviction being carried out.

Legal:

Issue NOP;
Prepare court forms and advise Recovery on whether case is likely to succeed;
Arrange service of court forms;
Attend court and write to tenant sending either Extract Decree or notification of decision;
Arrange for Sheriff Officers to carry out eviction;
Organise any subsequent diligence for repayment of debt when asked to do so by Recovery

SPECIAL CIRCUMSTANCES

Circumstances may exist which warrant deviation from the above procedure. If this occurs, reasons will be noted in the account diary.

It should always be remembered that each arrears case is different and an ever changing situation. Finance, Legal and Housing Officers will sometimes have to deviate from the policy at times to make progress.

SUMMARY OF RENT ARREARS PROCESS

	Example timescale
First Reminder	2
Second Reminder	4
Memo to Social Work	4
Home Visit	4-6
Final Demand	6
Home Visit	6-8
Memo to Legal	6
Memo to Housing	6
TA to Legal	7
Housing info to Legal	7
DEM1	7
Case Conference Invitation	8
Case Conference	8-11
Home Visit by key worker	1 week after CC
Monitoring of Action Plan	1 week after CC – 3 months

NOP Issued	2 weeks after CC – 3 months
NOP Active	4-6 weeks after delivery
Commence Court Action	Anytime in 6-month period after NOP Active
Eviction Decree Granted	0
Extract Decree	2 weeks after decree granted
Notice to tenant by SO	4
Eviction & lock change	4

MONITORING

The main responsibility for monitoring the performance of each arrears case will be the Income and Recovery Section and the responsibility of monitoring the overall performance will be the Revenues Manager.

The Income and Recovery Section will produce arrears statistics every fortnight. Arrears figures will also be emailed to Councillors on a regular basis.

The following data will be collected and monitored by the Income and Recovery Manager: -

- Total current tenant arrears
- Current tenant arrears as % of net rent due
- % of tenants owing > 13 weeks rent (where >£250)
- Total former tenant arrears
- Rent arrears written off

The following data will be collected and monitored by the rents section -

- Number of rent payments received in advance at sign up

The following data will be collected and monitored by Legal Services: -

- Number of NOPs issued for rent arrears
- Number of cases proceeding to court for rent arrears
- Number of cases resulting in an order for recovery of vacant possession
- Number of cases resulting in an abandoned dwelling after order granted
- Number of cases resulting in recovery of vacant possession
- Number where tenant granted new tenancy
- Number where no action taken

The following data will be collected and monitored by the Service Manager, Housing & Property: -

- Number of new lets
- Number of Case Conferences held
- Analysis of Case Conference Outcomes

Annual performance in relation to rent arrears recovery, based on the above data collection and analysis will be made available on the Shetland Islands Council's website.

Continuous Improvement

Any cases which proceed to formal legal action should be put on the agenda of the monthly recovery / housing meetings to discuss how the process went, whether the procedures had worked, were there any failures or where there are any lessons to be learnt or improvements that can be made into the future.

APPENDIX A

VP0018 – Sign Up Checklist

APPENDIX B

Please see - Vacating Your Property Booklet