

**CONTROLLED DOCUMENT**

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**CURRENT AND FORMER TENANT ARREARS POLICY**

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**Document Consultation and Review Process**

<b>Groups/Individuals who have overseen the development of this Policy:</b>	Housing Team Finance Team ECH Team
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## 1. POLICY STATEMENT

- 1.1 This Policy sets out Brunelcare's approach to the collection and management of rent arrears and how Brunelcare deals with former tenant arrears.
- 1.2 Brunelcare will endeavour to ensure that our approach represents current good practice and meets legal and regulatory requirements.

*Deborah Evans*

Deborah Evans  
Chair of the Board

*Oona Goldsworthy*

Oona Goldsworthy  
Chief Executive Officer

## 2. AIM OF THE POLICY AND RELATED LEGISLATION

- 2.1 The aim of this policy is to meet regulatory and legislative requirements to ensure that rental income is maximised and tenant debt minimised.
- 2.2 This policy aims to ensure that the arrears collections process contributes to current Charity strategic objectives and to maximise income to contribute to ensuring financial viability.

### Relevant Legislation and Guidance

[Equalities Act 2010](#)

[Housing Act 1988](#)

[Human Rights Act 1998](#)

[Regulator of Social Housing's Tenancy Standard](#)

## 3. SCOPE OF THE POLICY

- 3.1 This policy covers current and former tenant arrears across all tenancy types and includes shared ownership arrears.

## 4. DEFINITIONS

- 4.1 '*Rent arrears*' covers all tenancy charges including rent, service charges, heating and lighting charges, support charges, restaurant charges and any other additional charges permitted within the tenancy agreement.

- 4.2 This policy applies to all residents of sheltered properties, extra care properties, market rented properties, general needs properties, shared ownership properties and leasehold properties.
- 4.3 A current tenant/leaseholder is defined as being in arrears if, where rent and service charges are agreed and invoiced in advance, they are more than one week in arrears and where these costs are invoiced in arrears they have not paid the invoice by the due date(s).
- 4.4 '*Former tenant arrears*' is defined as where the tenant has ended their tenancy/lease with Brunelcare and a balance remains on their rent account.
- 4.5 Brunelcare will also use the term '*Charges for Use and Occupation*' where no tenancy exists, but an occupant's actions prevent us from renting a property. For example, where someone remains in occupation after the death of a tenant.

## **5. KEY PRINCIPLES AND REQUIREMENTS**

- 5.1 The Charity's principles will maintain compliance with current legislation, regulations, tenancy agreements, and good practice.

### **Current Arrears**

- 5.2 Brunelcare aims to provide help and support for tenants in arrears, with eviction being the last resort when all other options have been exhausted.
- 5.3 Brunelcare will provide prompt and up to date information to tenants on rent payments and welfare benefits, to assist tenants in fulfilling their responsibility for paying their rent. It is the tenant's liability to pay the gross rent regardless of any benefits being claimed.
- 5.4 Brunelcare will respond to any problems with the payment of rent by tenants. It recognises that it is in the interests of both Brunelcare and tenants to ensure that rent is paid promptly and to ensure that difficulties are resolved wherever possible without court proceedings. Any payment plans agreed will be reasonable and will be monitored regularly.
- 5.5 Rent statements will be produced as requested by tenants, and as a minimum every 3 months for those in arrears.
- 5.6 Brunelcare will follow the Pre-Action Protocol for Social Landlords within the Civil Procedure Rules. The Charity's procedures will be based on this Protocol.

- 5.7 A staged process will be followed, with the key stages being:
- 5.7.1 Arrears action being triggered if the tenant is more than one week in arrears.
  - 5.7.2 All tenants in arrears receiving a rent statement every three months.
  - 5.7.3 A payment plan being put in place for all tenants in arrears where the arrear is not due to a confirmed housing benefits payment
  - 5.7.4 A Notice to Seek Possession (NOSP) being served at six weeks' arrears.
  - 5.7.5 Referral to court once the NOSP has expired where the tenant is still in rent arrears and no agreement is in place or being kept to.

Detailed procedures reflecting the key requirements are in place to support staff within the new housing management system.

- 5.8 Where the tenant has died, Brunelcare will seek to recover the outstanding debt from the estate. Prompt action will be coupled with a sensitive approach to members of the deceased tenant's family.
- 5.9 Where the tenant has moved to other accommodation, they will be notified of the settlement figure before they leave Brunelcare. If the debt is not settled, the debt may be referred to a debt collection agency.
- 5.10 Arrears procedures, and in particular the standard letters, must be considered in the context of a tenant's individual circumstances, but at all times staff will aim to keep arrears to a minimum.
- 5.11 Brunelcare will use Ground 8 of Schedule 2 of the Housing Act 1988 to seek possession (alongside Grounds 10 and 11 if appropriate) in certain circumstances. This is a mandatory ground for possession, and if this ground is used, Brunelcare will offer the tenant a chance to review the Charity's decision to seek possession and inform us of any personal circumstances. The use of Ground 8 will be authorised by the Tenancy Services Manager prior to a Notice being served. Ground 8 may be used in the following situations:
- 5.11.1 Where the arrears are significant in amount and the tenant will not engage with Brunelcare.
  - 5.11.2 Where the tenant has previously written off a large amount of arrears by way of Debt Relief Order or Bankruptcy and then accrues further arrears.

- 5.11.3 Where the Charity has taken the tenant to Court before for rent arrears and this is the second (or subsequent) time Court proceedings have been started.
- 5.12 If there are two people on a tenancy agreement, then both tenants will be met, and any letters detailing discussion/agreements made will be sent to each individual tenant. In certain circumstances it may be appropriate to notify the next of kin, or other relatives who are involved in or manage the tenant's financial affairs, as previously agreed and notified by the tenant.
- 5.13 Where a repayment agreement is reached, the tenant(s) should sign a payment plan/agreement and be told how long it will take to clear their debt. Tenants will be reminded that rent is a priority debt, and of the consequences of breaking the agreement. Such repayment agreements will be kept under review, and where the tenant's circumstances change for the better, they should be asked to increase their payments.

#### **Former Tenant Arrears**

- 5.14 Brunelcare will pursue any debts owed to it by former tenants or their estates. Brunelcare has a duty to recover this money for the benefit of its current customers and tenants.
- 5.15 When pursuing former tenant arrears, Brunelcare will bear in mind a costs/benefit evaluation of the action taken/to be taken, to ensure the Charity only pursues debts there is chance of recovering.
- 5.16 Accordingly, before action is taken to recover former tenant arrears, the Tenancy Services Manager will assess the assets of the former tenant to assess if recovery is likely.
- 5.17 Brunelcare will follow the procedure configured in the new housing management system in relation to former tenant arrears.

#### **Vulnerable Customers**

- 5.18 When considering either current or former tenant arrears, Brunelcare will take into account the needs of vulnerable customers. This might be by:
- Providing advice and signposting people to other organisations or support agencies;
  - Making referrals within our organisation;
  - Making referrals to external organisations;
  - Helping with the completion of forms or applications;
  - Providing information in other formats;
  - Discussing matters with any authorised advocate; and

- Arranging home visits (where that is appropriate in the circumstances).

## 6. ROLES AND RESPONSIBILITIES

### The Board of Brunelcare (Employer and Landlord)

- 6.1 The Board has overall accountability for the activities of the organisation, which includes arrangements for addressing current and former tenant arrears. The Board will ensure that it receives appropriate assurance that the requirements set out in this policy are being met.
- 6.2 The Board discharges its responsibilities for addressing current and former tenant arrears through the Chief Executive Officer.

### Chief Executive Officer

- 6.3 The Chief Executive Officer has overall accountability for the provision of efficient and effective current and former tenant arrears arrangements.
- 6.4 The Chief Executive Officer discharges the day to day operational responsibility for current and former tenant arrears through the Director of Finance and Operations Director/Director of Housing Services.

### Director of Finance

- 6.5 The Director of Finance is responsible for the financial element of this policy, its delivery and the associated financial procedures. This responsibility is discharged within the Finance Team.
- 6.6 The Credit Controller will ensure the Finance Team provides up to date arrears information for relevant Housing and ECH staff.
- 6.7 A monthly joint meeting between Housing and Finance will review arrears by area with the Finance Team ensuring access to up to date reports within 4 weeks of the month end and weekly updates in the current position.
- 6.8 The Finance Team will provide regular monthly dashboard and management account updates on Housing and ECH arrears to SLT and quarterly to Trustees through the Integrated Financial Performance Report.
- 6.9 The Finance Team will support internal and external finance related audit queries
- 6.10 The Head of Finance and Credit Controller will meet monthly in order to review high value and older debt concerns and highlight appropriate action points and support plans where necessary.



- 6.11 Monthly meetings will be held within the 'Credit Control Forum', led by the Credit Controller, to understand, review and report on all Housing and ECH arrears including high value and older debt.
- 6.12 The Finance Team will review and report quarterly on bad debt write offs and provision movements. This is reported annually to external audit within Brunelcare's accounts.

#### Operations Director/Director of Housing Services

- 6.13 The Operations Director/Director of Housing Services is responsible for the operational delivery of this Policy and the associated procedures.
- 6.14 The Operations Director/Director of Housing Services will discharge these responsibilities through the Housing Team.
- 6.15 The Housing Team will support tenants through the processes laid out in this policy and pursue housing debt as per the procedures detailed within the Housing Management system.

## 7. EQUALITY AND DATA PROTECTION

### Equality and Diversity

- 7.1 Brunelcare seeks to embed an environment where all clients, visitors and employees are treated as individuals, fairly and in a consistent way. We work within the spirit and the practice of the Equality Act 2010 by promoting a culture of respect and dignity and actively challenging discrimination, should it ever arise. This policy will be applied in a way that is consistent with these principles.
- 7.2 Brunelcare will act sensitively towards the diverse needs of individuals and communities and take positive action to reduce discrimination and harassment.
- 7.3 This policy is available on request in other formats (for example in an alternative language, in Braille, on tape, in large type). All requests to be submitted to a member of the Housing Team or Customer Service Team.

### Data Protection

- 7.4 Brunelcare is committed to ensuring protection of all personal information that we hold, and to provide and protect all such data.
- 7.5 Brunelcare is dedicated to safeguarding the personal information under our control and in maintaining a system that meets our obligations under the

General Data Protection Regulation (GDPR). Our Practice is set out in our Data Protection Policy.

7.6 It is recognised that dealing with current and former tenant arrears will involve sensitive data. Therefore particular thought and care will be taken when processing data relating to this policy.

7.7 Any evidence used in court cases is likely to have any rights of privacy removed once it is heard in open court.

## **8. IMPLEMENTATION AND TRAINING**

8.1 Housing and Finance staff will be referred and introduced to this policy upon induction.

## **9. MONITORING AND REVIEW**

9.1 This policy will be reviewed every three years or sooner should the author or legal/regulatory requirements deem it to be required.

9.2 The effectiveness of this policy will constantly be monitored and used inform any further reviews alongside the above