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**ARREARS PREVENTION AND RECOVERY POLICY**

**AS WITH ALL OF THE CO-OPERATIVE'S POLICIES, THIS GUIDE, IN FULL AND IN PART, IS  
AVAILABLE IN SUMMARY, ON TAPE, IN BRAILLE,  
AND IN TRANSLATION INTO MOST OTHER LANGUAGES –**

**PLEASE ASK A MEMBER OF STAFF IF YOU WOULD LIKE  
A VERSION IN A DIFFERENT FORMAT**

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Review date November 2010**



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1. **STATEMENT OF OBJECTIVES**

1.1 The objectives of this policy to –

- Minimise the level of current and former tenants arrears by adopting principles of prevention, early intervention, personal contact, applying clear and systematic procedures when default occurs. Also to ensure that a payment culture is widely promoted to ensure that recovery of rent and monies due for all other accounts with the Co-operative are minimised using the same principles.
- Optimise tenancy sustainment and prevent homelessness by utilising advice and assistance for tenants from the start of their tenancy to maximise incomes, encourage housing benefit uptake and deal with debt in order to maintain tenancies. The Co-operative will work in partnership with other agencies to provide advice and counselling when debt occurs.
- Ensure that eviction is used only as a last resort for persistent defaulters when all stages of the recovery procedure have been exhausted.
- Ensure that tenants are treated with respect at all times and that all communications are clear, customer friendly and contact encouraged.
- Ensure that the implications of rent arrears for the organisation are expressed to both tenants and staff.

2. **COMPLIANCE WITH LEGAL FRAMEWORK AND PERFORMANCE STANDARDS**

2.1 This policy complies with the Housing (Scotland) Act 2001 in terms of the Scottish Secure Tenancy.

2.2 This policy takes account of a number of Performance Standards, including the following:

- Activity Standard AS1.8: Arrears which states that "we act to prevent arrears of rent and service charges building up. We recover any arrears fairly and effectively."
- Activity Standards AS4.4 which states that "we help to prevent homelessness arising in the first place, and its recurrence when it has occurred."
- Guiding standard GS2.1 Equal Opportunities which states that "We embrace diversity, promote equal opportunities for all and eliminate unlawful discrimination in all areas of our work".
- Guiding standard GS3.2 Information and Advice "We provide or secure effective information and advice, in line with the national standards for housing information and advice services".



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2.3 Account has also been taken of other good practice in Raising Standards, Chapter 15 and the Good Practice guide from the Office of the Deputy Prime Minister (June 2005) on Improving the Effectiveness of Rent Arrears Management.

### **3. EXPECTED OUTCOME**

3.1 It is expected that arrears will be minimised as a result of this policy across all income areas for current and former tenants of the Co-operative.

### **4. MINIMISING ARREARS BY PREVENTION METHODS**

4.1 One of the principal goals of the Co-operatives arrears policy is to prevent arrears occurring by providing information to prospective tenants at a pre-tenancy interview with a housing officer on their responsibilities for payment of rent relating to their new home. This interview will be undertaken when the applicant accepts the tenancy and attends an interview to sign up to the Scottish Secure Tenancy Agreement. This will enforce a culture of payment at the outset of a tenancy.

4.2.1 The pre-tenancy interview will –

- detail charges due
- provide information on methods of payment and locations of payment centres
- identify which method of payment is best suited to the new tenant and facilitate this, for example, by completing a standing order form
- clarify household composition information and employment details for qualifying occupiers
- clarify the responsibility of tenants, including those receiving Housing Benefit, for ensuring that rent payments (or completion of benefit claims and reviews/intervention forms) are made punctually and regularly
- explain the arrears policy and that whilst every effort will be made to maintain tenancies and offer support, non-payment of rent is taken very seriously and will lead to action being taken.
- Provide the new tenant with an information leaflet on “A guide to managing rent arrears, your questions answered”. These are also issued to any ongoing arrears cases.

4.3 At the offer stage, if applicable, the new tenant will also have been requested to bring with them proof of identity and income for all household members aged 16+ to enable the housing officer to assist in the completion of an application for housing benefit. The Housing Officer will be trained in the verification framework process to optimise completed claims being submitted to North Lanarkshire Council for processing.



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- 4.4 A Service Level Agreement (SLA) is in place for processing of complete claims for new tenants of the Co-operative with North Lanarkshire Council to ensure prompt processing. This SLA also includes notification to the Co-operative if the claim is incomplete and what further evidence is required. Housing Officers will contact new tenants promptly by telephone or home visit, to obtain and verify the necessary additional evidence required or facilitate this by contacting, for example, the Benefits Agency.
- 4.5 Where benefit is applied for, once this is processed, a letter will be sent to the new tenant confirming the amount of rent to be paid, including any HB entitlement. It is also standard that North Lanarkshire Council advise claimants of their benefit entitlement towards rent and council tax.
- 4.6 The pre-tenancy interview should highlight any issues of concern that could threaten a new tenant's ability to pay rent on time. Where debt problems are found, information on Welfare Benefit, Debt Counselling, Citizens Advice Bureau and Money Advice Services can be discussed and distributed in leaflet form at the interview. Referrals are also made at interview stage to the appropriate agency.
- 4.7 The basis for advice is -
- Welfare benefits advice is mainly concerned with ensuring that tenants get the range of state benefits to which they are entitled
  - Debt counselling aims to deal with tenant's debts
  - Money advice is a holistic service, which aims to look at both the sources of income and out-comings
- 4.8 Other issues of concern which could be flagged up at the pre-tenancy interview are where specific support requirements are necessary, for example, where a disability is identified and specialist assistance is required or where a tenant will require assistance with form filling during the period of their tenancy.
- 4.9 A checklist for the pre-tenancy interview is followed to ensure the prevention approach is methodical and fairly applied.
- 4.10 Where a new tenant has a previous history of rent arrears, this will be discussed with them in order to
- flag up our knowledge of the debt
  - set up repayment of debt to the Co-operative
  - identify why difficulties arose previously
  - set up any additional support to prevent recurrence of the debt situation, for example, weekly call/text to tenant when rent due or visit when housing benefit intervention is due to assist tenant with completing forms.



4.11

A settling in visit within 6 weeks of the commencement of the tenancy will provide a further opportunity for new tenants to obtain information and advice on rent payments and housing benefit. A status check will be undertaken by the Housing Officer to ascertain whether a regular payment cycle has been established, whether housing benefit is in payment and whether the arrears recovery process has been initiated. Any queries with housing benefit will be checked prior to the visit and steps taken to resolve any outstanding issues.

**4.12 Housing Benefit Liaison**

4.12.1 The Co-operative works closely with North Lanarkshire Council, Housing Benefits Section to optimise benefit and assist in promoting the take-up of benefit for our tenants to minimise arrears.

This will be by –

- All staff dealing in the management of rent arrears are trained in the housing benefit verification framework to promote assistance in completing housing benefit forms and submission of evidence to ensure speedy completion of claims.
- Encouraging tenants to advise timeously of change of circumstances to prevent overpayments of benefit occurring.
- Requesting service level agreement (SLA) for dedicated team of HB staff to deal with the co-operative's claims, provide information and reports and deal with enquiries.
- Regular partnership liaison meetings with HB to improve working practices, discuss specific cases, explain and plan for changes in HB regulations. Also to identify measures to promote effective strategies for preventing and reducing technical rent arrears by joint approaches with the two organisations, including joint training.

**4.13 Prevention of Arrears for Current Tenants**

4.14 Preventing arrears for existing tenants will be undertaken by communicating our policy to tenants via newsletters, leaflets, tenant handbook and website, stressing the importance of early contact with the housing officer if a change of circumstances occurs which could result in arrears.

4.15 Publicity on Ways to Pay and Where to Pay will be optimised through tenant communication and the web site and viable expansion of existing methods of payment to broaden choice to our tenants will be offered. Existing methods of payment include: -

- cheque payments at the co-operatives office.
- payment at any Allpay, PayZone or Post Office using rent swipe card
- payment by debit card through All Pay
- payment by telephone-automated 24/7 service through All Pay (by debit card)



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- standing order
  - personal cheques
  - payment via internet banking
  - payment via allpay.net online.
  - (it should be noted that the Co-op does not accept cash payments at the office)

4.16 Management information reports are available from the IT system (SDM software). Raising Standards recommends the following information be available to enable benchmarking with other Registered Social Landlords.

- The overall recovery performance for current rent arrears (will include all accounts managed by the Co-operatives and reflect performance targets)
- Recovery performance of arrears within specific bands
- levels of technical and non technical arrears identified by the IT system
- Information on Housing Benefit outstanding
- number of legal actions raised and properties recovered as a percentage

Note 1:

a) Non-technical arrears are any caused by ordinary non-payment of rent and should not include the following-

- any outstanding Housing Benefit which has not yet been received by a landlord
- outstanding payments from people who have an agreement to pay their rent slightly later than a Registered Social Landlord's regular rent cycle.

b) Technical arrears are those caused by maladministration of housing benefit, for example, outstanding housing benefit which has not yet been received by a landlord.

4.17 The IT system records payments made by type, records all actions made in respect of arrears recovery, records all account type history separately and directs staff in progressing through the rent arrears procedure to ensure fairness and equality of approach.

4.18 Customer information from the system must be clear and concise. Statements will be available for all accounts with the Co-operatives to encourage tenants to make contact, if issues arise and ensure tenants have a full record of transactions in their accounts.



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## 5. ARREARS RECOVERY PROCEDURES

- 5.1.1 All good practice identifies early intervention with tenants who experience rent arrears as the best approach to dealing with the debt. Tenants will be contacted within seven days of an arrear arising by way of a first reminder, which will flag up the amount outstanding. The reminder will reflect the prevention principles of assistance, ways to pay and encourage tenants to contact the Housing Officer.
- 5.2 If a further week lapses without payment or contact to explain the reason behind the missed payments, telephone contact will be made with the tenant to ascertain why the arrear is occurring and identify any assistance required from the Co-operative. If telephone contact cannot be established, a home visit will be undertaken by the Housing Officer. A suite of letters to reflect an escalation process as arrears increase, with no positive feedback from the tenant, will be detailed in the arrears procedures. Cases will be monitored regularly in line with any payment arrangement the tenant has with the Co-op.
- 5.3 In order to reiterate personal contact as a principle of this policy, a standard letter will only be issued after an attempt at personal contact has been made and was unsuccessful. Contact can be by home visit or interview (by appointment), telephone, text or e-mail to tenants. Where follow up is required, for example further income details are required, staff will make an appointment with a tenant to collect or receive the required information and undertake verification of same. Any specific requirements identified via the pre-tenancy interview, for example, to address disability issues, must be acknowledged and contact tailored to the best method of approach, taking into account health and safety issues at all times. This could include visits outwith normal office hours or contacting a tenant's place of work. Only where a tenant fails to respond to an appointed home visit, will a letter be issued making reference to the visit date asking for the tenant to make contact within seven days or the case will be escalated.
- 5.4 Tenants will be made aware that rent arrears can be paid off in instalments and arrangements for repayment will be based on an assessment of income and expenditure to reflect the tenant's capacity to pay. A pro-forma will be used for this unless the tenant refuses to provide the required details, in which case this will be noted on the file. Family composition details will be taken at all personal contact interventions. Arrangements to repay will be confirmed in writing with SDM rent accounting system updated at all times
- on the pro-forma sheet, which tenants will sign when personal contact is made (up to date contact details including phone numbers and email addresses will be taken at this stage)
  - in writing, within one week to further enforce the schedule of payment expected from the tenant, inclusive of any on-going rent, which is liable.
- 5.5 Tenants will be asked to pay what they can afford, in terms of their income and expenditure profile, as per the methodology agreed. Where tenants have a low income and can not afford to pay more, as a minimum, the current level of direct payment from benefit which is £3.00 per week will be paid to current tenants' rent arrears. Where the tenant is in receipt of qualifying benefits for "arrears direct"



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payments, this will be identified and progressed by the Co-operative as appropriate. Direct payments are sent to the Co-op on a 4 weekly basis.

- 5.6 Again, if it becomes clear during the course of an interview that a tenant is experiencing multiple debt issues, which are causing a difficulty with rent arrears, an appointment with a Citizens Advice Bureau (CAB)/debt counselling/money advice service will be arranged. This will be arranged in the context that rent is a primary debt and will stress the importance of maintaining the tenancy as per the agreement and the implications for continuing default for the future of the tenancy.
- 5.7 If a payment arrangement is missed, the tenant must make up the payment over an agreed timescale. This will reinforce a regular pattern of payment.
- 5.8 Arrears letters will be clearly worded to detail the amount owed, the action which the tenant should take to deal with this, will reinforce that contact is crucial and detail the implications for the tenant if no action is taken. Arrears letters will also offer options for legal advice, debt and money advice. Leaflets on debt advice are also provided to tenants with arrears. No more than three letters will be issued (following unsuccessful pre-emptive visits or attempts at personal contact).

The last letter, issued on or around when six week's rent arrears have accrued, will act as a final warning that legal action will be pursued if default continues and the tenant has failed to co-operate in reducing the debt and/or claiming housing benefit. The final warning letter will include an appointment for an office interview, within seven days, to formalise contact with the tenant. This housing officer will seek to get a repayment plan in place and explain the implications of a Notice of Proceedings for Recovery of Possession, including issue to qualifying occupiers, if the arrears problem remains unresolved. It may also be an option at this stage to arrange a letter to the tenant from the Co-op's Solicitor advising on the implications of legal action. This letter urges the tenant to contact the housing officer within 7 days.

- 5.9 If within one week of the office interview, no response has been forthcoming or a repayment arrangement has not been established, legal remedies will be progressed by issuing a Notice of Proceedings for Recovery of Possession.

## **6.0 Legal Remedies for Recovery**

### **6.1 Notice of Proceedings for Recovery of Possession Stage**

- 6.11 The first stage of legal action, a Notice of Proceedings for Recovery of Possession (NOP) will be issued in accordance with Section 14(2) of the Housing (Scotland) Act 2001 when the final warning letter does not prompt a response from the tenant. Up-to-date family composition information will enable qualifying occupiers (anyone aged over 16 in residence) to be identified and Notice of Proceedings copied to them separately. Notice of Proceedings will be hand delivered by two members of staff and a pro-forma signed by the delivering officers to record service. Alternatively a NOP will be sent by recorded delivery. The envelope will be stamped "STATUTORY NOTICE" which will emphasise that an important document is enclosed. All NOP's will be recorded in the Co-op's Legal Register, which details stages of action taken. .



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- 6.12 The Notice of Proceedings for Recovery of Possession is in a prescribed format and specifies the grounds for recovery, commonly being Ground 1, Schedule 2, Part 1: "Rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy has been broken." The NOP also specifies a date no less than four weeks from the date of service, when the notice becomes "live" and can be acted on in Court.

An audit trail for each NOP served will be completed by the housing officer. This will highlight any qualifying occupiers (or expectant) during the period of the NOP.

- 6.13 The Notice of Proceedings will stipulate the Co-operatives intent with respect to the debt, being either of the following: -
- recovery of the property
  - recovery of the debt only
  - a conjoined action for both repossession of the house and recovery of the debt
- 6.14 Notice of Proceedings will only be issued when at least six weeks rent arrears have been accrued and no repayment arrangement has been established within one week of the final warning stage. Where an HB claim remains unresolved, it will be established that the claim remains outstanding due to the tenant's failure to supply requested information or the tenant is failing to pay agreed rent charges plus arrears repayment sums, before a NOP is issued.
- 6.15 If the Co-operative is aware that Housing benefit is pending for a tenant, the arrears will be highlighted on file as technical arrears and the Notice of Proceedings will not be issued. Once housing benefit is paid, the case will be checked to ensure that receipt of housing benefit has cleared the debt. If not, the tenant will be contacted and made aware of any residual debt and charges due. This will ensure that a repayment arrangement is set up quickly.
- 6.16 When a NOP is issued, support will again be reinforced. At this stage, a referral appointment for the tenant will be offered to advice services, e.g. Money Advice /CAB. Tenants will be encouraged to seek independent legal advice in respect of the NOP and the implications for any legal action, which follows this.
- 6.17 If tenants participate in the advice support referral appointment and any subsequent follow up work which arises through this, no further legal action will be taken whilst appropriate repayment arrangements are agreed unless the tenant is no longer co-operating. This should reduce the need to progress to the next stage of the policy. The number of successful cases referred resulting in a positive response will be an important tool in monitoring performance in this eviction prevention procedure.

## **7.0 Court Action**

- 7.1 Following issue of a Notice of Proceedings, if a tenant has not contacted the Co-operative within one week, a further home visit will be undertaken to establish contact with the tenant and resolve the



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arrears situation. If unsuccessful and no response is obtained, again, within one week, a pre-court office interview will be arranged to discuss the implications of referring the case to our solicitor.

- 7.2 If no response to a pre-court interview has been received from a tenant or no repayment plan is in place, a solicitor will be instructed, following housing manager review of the case, to progress proceedings at the Sheriff Court under summary cause.
- 7.3 It is usual for a lengthy period of time to elapse between raising a Notice of Proceedings and obtaining a court date at the Sheriff Court. During this period, the process of negotiation with the tenant to seek repayment will continue. A visit will be undertaken to establish whether any change in circumstances has occurred which could have a fundamental bearing on the debt outstanding or the reasonableness of taking the case to court. This includes a check on occupancy. The importance of seeking independent legal advice will be reiterated. Information on the implications of decree being awarded will be reinforced again including implications for homelessness and contact details for North Lanarkshire Council, Homeless Services, will be given out.
- 7.4 The Housing Manager will give consideration to the vulnerability of the household and ensure that North Lanarkshire Council, Social Work Services are advised of the pending court date. Where families with children are involved, this will be flagged up, as will any pertinent facts to the case, for example, where tenant failed to respond to Support Advice Referral.

The solicitor will be advised by the Housing Manager on the decree being sought and in the majority of cases, this will be a conjoined decree seeking payment and recovery of the tenancy.

- 7.5 All documentation necessary for a court case will be included within procedural guidance to provide the most up-to-date information to the attending solicitor regarding the level of arrears outstanding, any Housing Benefit considerations, repayment proposals and breaches of this, family composition and any pertinent factors which the Sheriff may wish to consider regarding reasonableness. This will assist in alleviating any unnecessary delays occurring. A standard Court instructions pro forma is emailed/faxed to the Co-op's Solicitor on the day before the case calling
- 7.6 If the tenant or their legal agent lodges a defence, a proof hearing will be held to establish the facts of the case and whether the Sheriff considers it reasonable to proceed with the action.
- 7.7 If a defence is lodged on the day, for example, by tenant appearing at court and stating that a live application for housing benefit has been made and is not yet processed, or an offer of payment by instalment is made, the Sheriff can continue the case to allow time for checks of Housing Benefit to be done or to monitor payments. A further court date will be set and if no payments by benefit of from the tenant are made, decree would normally be granted. Alternatively, a Sheriff can grant an instalment decree, which defaults to full payment of debt becoming due if the instalment amount agreed at court is not maintained. This could result in an earnings arrestment being served or an arrestment of bank account.
- 7.8 If regular payments have been forthcoming in a continued case, the Sheriff can sist the case. If a case is sisted, monitoring of payments will be undertaken and only on default, would the solicitor be requested to recall the case to court to request decree.



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## **8.0 After receipt of Decree**

- 8.1 Once decree is obtained the existing Scottish Secure tenancy no longer exists. On the date of the award of decree, sums due will be transferred to a Former Tenant's account. If a tenant makes approach to repay the debt, either in full or by instalments, consideration will be given by the Housing Manager/Depute Director as to whether a new tenancy will be granted. Procedural guidelines will be issued for management for assistance in considering a new tenancy being set up. A new tenancy will only be granted where satisfactory arrangements are in place for payment of ongoing charges and former tenant's arrears. When money has been accepted on a tenancy where Decree has been granted, money will not be posted to that rent account, but transferred to another account set up.

## **9.0 Eviction & Who agrees**

- 9.1 If no offer of payment if forthcoming post decree, the manager will prepare an anonymous report to the Management Committee recommending eviction. The actions taken by the staff to liaise with the tenant and reduce the arrears will be detailed and steps specified at which the tenant failed to co-operate.
- 9.2 If the Management Committee agree that eviction is appropriate, a date will be set in liaison with the Solicitor and Sheriff Officer. The tenant will be notified and North Lanarkshire Council Housing and Social Work Services will be contacted by way of advising that a request for temporary accommodation may be forthcoming and instructions for locks to be changed, skip hire and portorage, where necessary, will also be issued.

Once the Management Committee have agreed an eviction, this is binding unless the balance is paid in full and the Depute Director considers cancellation appropriate. The cancellation will be reported to the next Management Committee meeting.

## **10.0 OTHER DEBTS**

- 10.1 The policy for preventing and recovering current tenants' rent arrears applies equally for all accounts held by tenants of the Co-operatives and includes Former Tenant Arrears and Court Expenses.
- 10.2 Detailed procedures will be drawn up to minimise debt for former tenant arrears and court expenses. Staff will also be responsible for other debts owed as detailed above to provide a holistic approach to an individual tenant's debt to the Co-operative. This will include Former tenant arrears and recoverable repair charges but exclude factoring arrears; in short, the staff will deal with all aspects of debt for a current tenant.

## **11.0 FORMER TENANTS' ARREARS**

- 11.1 For new tenants of the Co-operatives, where a previous tenancy debt exists, the procedure for dealing with this case was outlined at section 4.2.1 at the pre-tenancy interview. It should be noted that it is illegal, in terms of the Housing (Scotland) Act 2001 to suspend an applicant from the housing list for housing solely due to Former Tenants' arrears being in existence. The Co-operative will admit



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an applicant to the list but operate a twelve weeks repayment schedule before an offer of housing is made. It is important to ensure that Former Tenants' Arrears for a current tenant can be recognised as such.

- 11.2 Staff will deal with all Former tenants arrears including new cases arising where tenant dies, purchases house, moved home and address known or No Forwarding address, been hospitalised or entered care, etc. Initial procedures will be to pass the debt to a debt recovery agency if a suitable repayment plan is not in place. Their procedures will include letters and one home visit, as reflected above, but could involve more stringent methods to recover debt including looking at small claims court procedures, decrees for payment, earnings arrestment, using debt recovery agencies, or tracing agencies to find abandoning tenants, on site investigation by contacting neighbours, employers, relatives, etc. The Depute Director will have delegated authority to write off debt, when recovery methods are exhausted up to a specific value.
- 11.3 The assistance of debt counselling and welfare benefits advice (particularly applications for backdate of housing benefit) will continue to be offered to our former tenants. North Lanarkshire Council do not backdate benefit any further than 52 weeks.
- 11.4 Performance measures in Raising Standards recommend the following provision for monitoring
- Levels of technical and non-technical arrears for Former Tenants arrears
  - Rate of tenancy terminations and the percentage of tenants leaving with outstanding debts
  - Percentage of Former Tenants' Arrears pursued by which method
  - Number of repayment agreements reached and success of agreement
  - Number of tenants successfully traced who did not give notice of forwarding address
  - Comparison of performance, benchmarking
  - Also, measure of write off levels

All to be measured on a quarterly basis.

## **12.0 MONITORING/PERFORMANCE MANAGEMENT**

- 12.1 To achieve continuous improvement, the Co-operative will monitor performance on arrears recovery across all account types on a regular basis. Performance monitoring will be set against targets to enable the management committee to analyse the effectiveness of the recovery policy. A number of performance measures are highlighted throughout this policy. Enhanced performance management will be available to the Management Committee and staff as the policy rolls out to measure the effectiveness of each action in the recovery process.
- 12.2 Regular team meetings between the housing officer and housing manager will take place to address any individual cases of concern and to also ensure the rent arrears policy and procedures are followed. Any policy/procedural issues will be analysed at these meetings and addressed accordingly. 4 weekly reports (in line with the Co-op's rent debit cycle) will be provided by the housing officer to the housing manager with targets for arrears monitored. The management committee will be provided with a report on a monthly basis on rent arrears and every quarter a full report on Key



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Performance Indicators (KPI's) will be presented. This will show actual performance compared the targets set out in the Internal Management Plan (IMP) and those within our peer group classification

**13.0 REVIEW**

- 13.1 This policy will be reviewed every three years with the next review scheduled for 2010.  
This review is subject to an earlier date if legislative, regulatory or good practice guidance.