

Item 9

REPORT TO THE CARLISLE SHADOW BOARD
MEETING TO BE HELD ON 25/2/02

Carlisle Housing Association
Proposed Rent and Service charge and Rent Arrears Policy

For Decision

1. Purpose of the Report

- 1.1 To agree the attached rent and service charge and rent arrears policy.

2. Report Content

- 2.1 The main policy is attached. This sets out Carlisle Housing Association's approach to four key policy areas:-

- Rent Setting including meeting rent convergence and rent guarantee
- Service Charge Setting
- Rent and Service Charge and rent collection methods
- Rent and Service Charge Arrears
- Reporting Requirements detailing performance information to be presented to the Board on a quarterly and annual basis.

- 2.2 Appendix 1 and 2 are the City Council's current procedures for the recovery of rent arrears and former tenant rent arrears. It is recommended that Carlisle Housing Association adopt these procedures in their current form with a view to review procedures following transfer at a time to be agreed by the Board.

3. Recommendation

- 3.1 The Shadow Board is asked to approve the attached policy and the procedures contained within Appendix 1 and 2.

Paul Anson
Assistant Director

18th February 2002

Carlisle Housing Association
Rent and Service charge and Rent Arrears Policy

1. Policy Content

1.1 This policy sets out Carlisle Housing Association's (HA) approach to five key policy areas: -

- Rent Setting
- Service Charge Setting
- Rent & Service Charge Collection
- Rent & Service Charge Arrears
- Rent & Service Charge Management Information Requirements

2. Carlisle Housing Association Policy

2.1 This policy sets out Carlisle HA's approach in respect of rent setting, service charge setting, collection and arrears management. It outlines the approaches that will apply to tenants transferred to the association from Carlisle City Council. Introductory tenants will be full assured tenants by agreement.

3. Rent Setting

3.1 Carlisle HA aims to set rents which reflect the attributes and amenities of the property, and which do not depend on personal circumstances of tenants. However, it must do this with regard to the following principles:-

3.2 Rents should be affordable

3.3 Carlisle HA aims to re-house people in housing need. The rent policy of the association is designed to support that aim, and rents are set and increased so as to be affordable to those of our applicants and tenants who are in low income employment, or who are seeking such employment.

3.4 Meeting Rent Convergence

3.5 Carlisle HA must use the 'rent formula' set by the Housing Corporation and DTLR to calculate its rents over the foreseeable future. In effect, this formula generates the rent regime the RSL must operate within. This formula is part of a sustainable restructuring of the way rents are set across the Country. The policy aim is to remove local rent discrepancies between RSLs and local authorities through the use of a locally driven formula. This formula uses multipliers of local manual

- earnings and property values to set a 'target rent', which must be met within a maximum of 10 years of the transfer. Carlisle HA aims to meet this target in year 10 of the convergence timetable. The formula is weighted so that smaller properties with fewer bedrooms attract a lower rent than larger properties with more bedrooms. In effect this raises the differential between different property sizes an artefact, which was not, significant under the City Council's previous rent policy.
- 3.6 In the context of Carlisle this formula generates rent levels that are within housing benefit thresholds but are nevertheless increasing at circa 2% above inflation over the next 10 years. This does raise affordability questions for those on low incomes but outside the housing benefit threshold. Though improvement reflective rents are no longer chargeable as an additional element above standard rents.
- 3.7 Carlisle HA will comply with all legal and regulatory requirements**
- 3.8 Carlisle HA sets rents in line with legal requirements and will comply with policies of the government and regulatory bodies. Rent increases will continue to be in line with legal, contractual and regulatory requirements.
- 3.9 Rent Guarantee**
- 3.10 Though rents are set through the target rent formula, it is important tenants are given security that their rents will not rise dramatically. To achieve this, Carlisle Housing Association will offer tenants a 5-year 'rent guarantee' as part of both the tenancy agreement and offer document. This guarantee would cover the financial years 2002/3 – 2007/8. Under the Rent Guarantee, charges for rent will not increase each year by more than inflation plus 0.5% plus £2.00.
- 4. Service Charge Setting**
- 4.1 Service charges are calculated separately from rents and do not form part of the new rent regime. A service charge will be set where appropriate for specific services that the tenant receives and will be an additional charge above the standard rent for that property. A separate service charge policy will be developed for leaseholders in line with the current charging regime and schedules within the deed of lease.
- 4.2 Within the Carlisle HA budget, the service charges will be disaggregated from rents; it is a Housing Corporation requirement that there is no 'service charge pooling'. In practice this means a charge must be made for services that a tenant receives which are particular to him/ her or the estate in which they live. This charge must cover the full cost of the service and should not normally be cross subsidised by other tenants rents. This approach represents a significant change

- from the current City Council practice where service charge pooling is normal practice and all tenants contribute at least in part to a range of specialist services received by a minority of tenants.
- 4.3 Given that service charges will appear to be a new charge to tenants in Carlisle, it is important that the implementation of service charges is done transparently and fairly. Three principles will aid this: -
- Tenants pay only for the actual cost of the service they receive.
 - Tenants will receive a clear annual statement.
 - Service charge under-spends will be rebated annually to tenants through service charge adjustments.
- 4.4 In implementing the Service Charge policy for transferring Council tenants, it has been assumed that the Council will commence disaggregation of rents and service charges prior to the transfer taking place and will have begun to introduce defined charges for any tenants receiving services.
- 5. Context**
- 5.1. National Context**
- 5.2 As noted Carlisle HA must meet the requirements of rent convergence as set within Housing Corporation and DTLR guidance. However, there are a number of other legislative and regulatory requirements.
- 5.3 The legal powers to take possession action against tenants in rent arrears are set down in the Housing Act 1988 (Assured tenants), as amended by the Housing Act 1996.
- 5.4 The Protection from Eviction Act 1977 also includes relevant provisions. The grounds for eviction for transferring and new (assured) tenants are set out in Carlisle Housing Association's tenancy agreement.
- 5.5 The Housing Corporation's Assured and Secure Tenants Charter contains statements of principles that Registered Social Landlords (RSLs) should practice and minimum standards that they should achieve. It states that RSLs should inform tenants in plain terms of their policies for pursuing rent arrears, including when legal action will be taken. This should be only after full investigation and consideration of the tenant's circumstances.
- 5.6 Housing Corporation Performance Standards**
- 5.7 The Housing Corporation also issues performance standards for Registered Social Landlords, which are the foundation for their regulatory processes. Relevant sections of the document incorporate

information on financial control, the maximisation of the collection of rent due, the adoption of clear policies for dealing with breaches of tenancy and the provision of good quality information to tenants. The current Performance Standards document were revised from 1 April 1998. In relation to this policy Carlisle Housing Association will monitor performance against the following key indicators as outlined in table 1.

5.8 Table 1

Performance Indicator	Standard
% rent collected	97% of rent receivable
% rent arrears on current tenancies	no more than 5% of rent receivable
Void rent loss	no more than 4% of total rent receivable

5.9 Carlisle Housing Association will adopt the relevant Performance Standards as laid down by the Housing Corporation and will monitor performance accordingly.

5.10 **Carlisle HA Context**

5.11 Rent is the primary source of income to Carlisle HA, and we must be certain that the rental income is sufficient to meet the obligations of Carlisle HA to our tenants. We will therefore maximise our rental income, within the constraints of this policy.

5.12 We aim to invest in the stock and maintain to the highest standards we can afford, so the rental income must also be able to support these activities.

5.13 We are aware of the precarious and interdependent relationship between housing benefit regulations and the income of households entering low paid employment. For that reason, combined with the recognition that the benefit of mixed income communities can assist in our aim of creating sustainable communities, Carlisle HA will support these tenants through the employment of a Debt Caseworker to support and help those tenants in greatest hardship.

6. **Rent and Service Charge Procedure**

6.1 **Rent Setting**

6.2 Rents will be set annually by the Board with reference to the target rent formula, the rent guarantee and other guidance as issued by the Housing Corporation and DTLR.

6.3 Rent Calculation

6.4 The target rent formula is set out within various guidance, this will be used to calculate the yearly rent levels by bed size.

6.5 Rents will be calculated over a 48-week rent year. The 'rent free' periods will be Easter and Christmas. CHA will follow the Council's current practice.

6.6 Annual rent increases will be implemented from the 1st of April each year, tenants will be informed of the rent for their property in February of each year.

6.7 Service Charge Setting

6.8 Service chargeable costs will be set within the annual budget and will be collected weekly with rent payment. Service charge under-spends will be rebated annually to tenants through service charge adjustments.

6.9 Although care will be taken to avoid overspends, they will be passed on to tenants.

6.10 Payment

6.11 Tenants will be given clear information about the variety of ways in which they can pay their rent. Tenants will be notified of any changes to payment arrangements. Carlisle Housing Association will ensure that appropriate advice and information about the tenancy agreement and obligations regarding rent payments is given when signing up a new tenant. It will be clearly explained to tenants that the ultimate consequence of non-payment is the loss of their home.

6.12 Carlisle Housing Association seeks to maximise rental income and will ensure convenient and accessible methods for tenants to pay rent therefore payment methods need to be convenient and accessible. Tenants can pay their rent in a number of ways:

- Cash payment at a Post Office using a swipe card
- By Direct Debit
- By Standing Order
- At a Bank
- By Post (cheque payment)
- Direct Payment of Housing Benefit to the Landlord
- Cash payment at the Carlisle City Council Civic Centre in the period CHA occupies the premises.

6.12 A rent & service charge statement will be provided annually to all tenants.

7. Rent & Service Charge Arrears

- 7.1 Rent and service charge income is essential to the viability of Carlisle HA and the delivery of quality services. Prompt and effective action will be employed to maximise rental income while safeguarding the interests of tenants.
- 7.2 Tenants will be given support to enable them to maximise their entitlement to appropriate welfare benefits. Tenants will be given regular, accurate and up-to-date information about their rent account and other relevant information.
- 7.3 Applications for Housing Benefit will continue to be made to Carlisle City Council and the City Council will make payments to those who qualify or directly to Carlisle Housing Association as landlord. Carlisle Housing Association will reclaim from the tenant any overpayment of Housing Benefit, which is lawfully recoverable by the Council directly from Carlisle Housing Association. Transferring and new tenants will continue to pay Council Tax to Carlisle City Council.
- 7.8 Carlisle Housing Association will adopt a firm, fair and prompt approach in the management of rent and service arrears cases and that every available measure should be taken to prevent the accrual of arrears.
- 7.9 In cases of persistent non-payment, the policy is to take prompt and progressively firmer action, leading potentially to eviction.
- 7.10 Carlisle Housing Association will follow an agreed procedure for the recovery of rent and service charge arrears. At each stage, all reasonable steps must be taken to contact and meet with the tenant to inform them of the situation and agree arrangements for the arrears to be paid. Carlisle Housing Association will seek to ensure that repayments of arrears are affordable based on income and out-goings. Where appropriate an application will be made for direct deduction from on going benefit entitlement. Full consideration will also be given to the use of other available measures to recover rent debt. Carlisle Housing Association may deduct any money that is owed to the Association from any money that may be owed to the tenant, for example, any arrears of rent may be deducted from any redecoration or disturbance allowance that may have been received otherwise.
- 7.11 Carlisle Housing Association is mindful of exceptional circumstances where following the agreed procedure of recovery of rent and service charge arrears is not appropriate. For example the hospitalisation of the tenant, ill health, mental illness, delay in benefit assessment, recent unemployment, bereavement or matrimonial difficulties. Action should only be suspended for a temporary period to give the tenant and/or support agencies an opportunity to resolve the problem.

- 7.12 In relation to this policy, Carlisle Housing Association can serve a notice (or ask the court to dispense with service of the required notice) and then seek to recover possession of a home on Grounds 10 'rent arrears' and 11 'persistent delay in paying rent' set out in conditions 16.7 and 16.8 of the tenancy agreement. These grounds are discretionary. For new tenants, Carlisle HA may also consider using Ground 8 (the tenant is 8 weeks or more in arrears).
- 7.13 Tenants who, at the time of transfer are subject to outstanding possession orders, NOSP's or Notices to Terminate will not be offered the enhanced form of assured tenancy by Carlisle Housing Association (as this would be incompatible with any outstanding action) unless or until any suspended possession order is discharged or the NOSP is complied with or expires without being reserved or action commenced. The benefit of any possession proceedings would transfer, but if the offending tenants are offered a new tenancy agreement then Carlisle Housing Association would lose the right to seek possession for existing breaches. Where proceedings have not been commenced, it may be necessary to re-serve a NOSP quoting the relevant ground under the Housing Act 1988.
- 7.14 Distraint will not be used as a means of recovering payment.
- 7.15 Eviction will be taken as the final sanction against non-payment but only after all other reasonable steps have been taken, proper legal action has been pursued via the Courts and the approval of the Board of Carlisle Housing Association has been obtained. In emergency situations, approval can be given by the Chairperson and one other nominated Board member and subsequently reported to the Board.
- 7.16 Where recovery of former tenancy arrears is not achievable, the writing off of the individual debts should be approved by an authorised senior member of staff in accordance with Carlisle HA's Financial Regulations and reported to Carlisle Housing Association Board in summary form.
- 7.17 The Director of Carlisle Housing Association or other relevant staff as agreed by the Board of Carlisle Housing Association can authorise the re-possession of a tenancy following its abandonment or where illegal occupation has occurred.
- 7.18 The Board of Carlisle Housing Association will agree a procedure guide for the prompt and efficient recovery of arrears. This guidance for this is included in Appendices 1 and 2 of this document. This will include: -
- Specific action to be taken by staff, in respect of rent arrears at the following stages:-
 - Sign-up of new tenants and claiming of benefit entitlements
 - Initial recovery action

- Serving of a Notice of Seeking Possession (NOSP)
 - Action following serving of NOSP
 - Pursuing Court Action
 - Court Hearing
 - Breach of Court Order
 - Pre-Eviction Procedure
 - Eviction and Post-Eviction
- Specific action to be taken by staff and agencies, in respect of former tenant arrears, set out in Appendix 2, including action to be taken where:-
 - Tenancy termination interview is held
 - Forwarding address is known
 - Forwarding address is unknown
 - Write-off of debt is to be considered
 - Existing Money Judgements
 - Death of a Tenant
 - New tenants with former rent arrears
 - Performance monitoring and reporting to Board

8. Reporting Requirements

8.1 Carlisle Housing Association needs robust management information both for internal use and for the purposes of statutory reporting of rents and service charge levels.

8.2 Information Technology

8.3 Rent setting is a function within the Orchard system. To enable the correct rent to be calculated all relevant property attributes must be entered onto the system.

8.4 Corporate information

8.5 In order to have accurate information for budgeting and monitoring purposes, rent and service charges must be kept up to date.

8.6 Regulatory and Statistical Return

8.7 As noted the Housing Corporation issue performance standards for Registered Social Landlords which is the foundation for their regulatory processes. In relation to this these performance indicators are included within the Board reporting requirements.

8.9 Performance Review Reporting

8.10 The Board are to be provided with the following information annually and quarterly:-

- Rent levels by property size by Local Authority
- Total rent collected
- % of rent collected
- % rent arrears on current tenancies
- Total rent arrears – current and former
- Void rent loss
- Rent increases (year to date)
- Total service charges collected
- Service charges by service type
- Service charge increases
- % of service charges collected
- % of service charge arrears on current service users
- Average, median and modal service charges
- Total service charge arrears
- Rent levels compared with those of other RSLs, the private sector, local authorities both regionally across Cumbria and with Carlisle district.

8.11 Other information as the Board sees appropriate

9. Risk Assessment

- 9.1 The major risk arising from this policy is financial. If rents are set at a level which is too high the association may find it difficult to find tenants for its properties. Conversely, if rent levels are set too low the association may not be able to generate sufficient income to meet current commitments and future expenditure plans.

Appendix 1

Rent Arrears Recovery Policy – Current Tenants

1. INTRODUCTION

- 1.1. The policy of Carlisle Housing Association is that a firm but fair approach should be adopted in the management of rent arrears cases and that every available measure should be taken to prevent the accrual of arrears.
- 1.2. In cases of persistent non-payment, the policy is to take prompt and progressively firmer action, leading potentially to eviction.
- 1.3. All staff must take early arrears recovery action according to the policy. Actions must be undertaken by Officers at the time stated in the policy.
- 1.4. If an Officer feels that the next step in the recovery procedure should not be taken, he/she **must** discuss this with their Line Manager and obtain that officer's approval for not taking the next required action. The Officer must record the reason for not taking action on the Orchard system.

Possible reasons for not taking the next action would include the hospitalisation of the tenant, other ill health, mental illness, inability of the tenant to understand their responsibility for rent payment, delay in benefit assessment, recent unemployment, bereavement or matrimonial difficulties. In such cases, if action is suspended, it should only be suspended on a temporary basis to give the tenant and/or support agencies an opportunity to resolve the problem. The period of suspension should be for up to 10 working days. This does not apply, however, if it would mean adjourning a Court hearing.
- 1.5. Officers are expected to carry out a minimum of 20 home visits re rent arrears every week. It is accepted however, that in some circumstances this may not be possible. It will be acceptable in these circumstances to make telephone contact with the tenant to discuss the case. In either event, the visit or telephone call must be recorded both on Orchard and (until the amendment of Orchard action codes is complete) manually, by address listing per week.
- 1.6. In future, to save space, it will be necessary to create a separate Arrears File once an application has been made for a Court hearing, rather than once a NOSP has been served. NOSPs should be stored as directed in paragraph 4.4.2.

2. GENERAL

2.1. Sign Up of New Tenants

The sign up procedure should be used to establish:

- a person's income;
- their intended method of payment, and how often (weekly, monthly) they intend to pay;
- the tenant's awareness of their obligation to pay the rent when it is due, and ensure that they are aware of the consequences of failure to pay.

2.2. Housing Benefit

- 2.2.1. Do not assume HB has been applied for, and keep a weekly check on arrears cases awaiting assessment of a HB claim.
- 2.2.2. If a claim is made, do not necessarily assume they will qualify for full HB. Contact the Housing Benefit Advisor for advice.
- 2.2.3. If the case has reached the stage where service of NOSP or higher action is required, the Officer must pass the details to the Housing Benefit Advisor to 'fast track'. Note that you have done so on Orchard scratch pad. If no response received within 2 weeks, notify your Line Manager.
- 2.2.4. Tenants should be encouraged to chase their claim up if there is any unnecessary delay to processing.
- 2.2.5. Tenants must be advised to inform HB section of any change in household or financial circumstances.

2.3. Application for Direct Payment of Rent Arrears

Direct payment can be made from Income Support or Job Seekers Allowance.

- 2.3.1. Application can only be made if the arrears amount to 4 full weeks or more rent.
- 2.3.2. Where the arrears amount to 8 full weeks rent, application can be made without the permission of the tenant.
- 2.3.3. Where the arrears amount to between 4 and 8 weeks, the permission of the tenant should be obtained. But the Benefit Agency may be prepared to make direct deductions without permission if they are convinced that the tenant's home is at risk and direct deductions would be in the tenant's best interests.
- 2.3.4. Use forms DRP1, DRP2 and DRP3 to request direct payments from the Benefits Agency, (see Appendix 2).

3. NEW TENANTS

- 3.1. All tenants who may qualify **must** complete a Housing Benefit form at time of sign up, inclusive of all details, where possible. Advice and assistance should be offered at this stage. A receipt must be issued to the tenant and acknowledgement form should be attached to the claim and sent to Housing Benefits.

The new tenant should be reminded that they must change their address with the DSS (where applicable) as this could delay processing.

- 3.2. At signing up the tenant if he/she seems unlikely to qualify for Housing Benefit should also be asked what method of payment will be used i.e. post office, standing order etc. **All** new tenants who choose to pay monthly **must** be advised that they must pay in advance.

- 3.3. If new tenants appear on the rent arrears recommendations printout and we are aware they are claiming Housing Benefit, check with City Treasurers that they have received the claim, and whether there have been any hold ups. The initial check should be on Academy.

If the claimants have not provided information necessary to the claim, write or visit stressing the importance of supplying the details. If the situation persists to when 5 weeks are owing, serve a Notice of Seeking Possession.

- 3.4. If the tenant has not completed a Housing Benefit form the arrears procedure as below for existing tenants must be followed.

- 3.5. Remember new Housing Benefit claims should also be completed if a tenant moves by mutual exchange or transfer.

4. INITIAL RECOVERY ACTION

Rent arrears cases should be checked at the beginning of every week for all cases in the Officer's management patch.

Officers must use the Specific Recommendation screen on Orchard and **must** also check the No Action Recommendations.

The following procedure **must** be adhered to unless the provisions of paragraph 1.4 apply.

- 4.1. **Letter 1**
2 Weeks arrears (3 weeks owing)

Officers to send this standard letter RA1

For a monthly payer, standard letter RA11 to be sent after 1 week has passed since the date payment was due – i.e. in the 5th or 6th week, depending on whether the rent is normally paid 4 weekly or calendar monthly. If the debt is static and the tenant is on Income Support, send letter RA1a. If the tenant responds, the officer should:

- 4.1.1. Establish the reason why the arrears have arisen.
- 4.1.2. Establish that the tenant is claiming all the benefits that they are entitled to.
- 4.1.3. Obtain an agreement to repay the outstanding amount.
- 4.1.4. Advise the tenant who to get in touch with if any further problems arise.
- 4.1.5. Record the details of the interview/telephone conversation on Orchard.

4.2. Letter 2

3 weeks arrears (4 weeks owing)

Where there is no response, or an agreement is defaulted upon or the arrears rise, within 7 days of the original letter, the tenant must be visited and standard letter RA2 given to them.

This visit can be used to carry out and record a New Tenant visit if it is a new tenant we are dealing with.

In addition the Officer should:

- 4.2.1. Confirm the issues covered under 4.1.1, 4.1.2, 4.1.3, and 4.1.4 above.
- 4.2.2. Obtain and record details of the tenants income and expenditure on the proforma (see Appendix 3).
- 4.2.3. Obtain and record details of the household composition.
- 4.2.4. Explain that a Notice of Seeking Possession (NOSP) will be served if rent arrears do not reduce.
- 4.2.5. Where no one is at home at the time of this visit, the letter RA2 should be left, along with the information sheet on where the tenant can obtain legal advice.
- 4.2.6. Record details of the interview on Orchard system.

4.3. Serving a NOSP

4 weeks arrears (5 weeks owing)

A notice is a warning to the tenant that Carlisle Housing Association can take Court action to recover the tenancy after a minimum of 28 days if the arrears do not reduce.

It is valid for a full 12 months after service and can be acted upon at any time during that period.

If, having sent letter RA2, an agreement for repayment is defaulted upon or the arrears rise, the officer must personally visit and:

4.3.1. Deliver letter RA3 and ensure legal service of a properly authorised NOSP, and that the tenant(s) is/are aware of the purpose and effect of the NOSP.

4.3.2. Advise the tenant that if the arrears are not reduced by the expiry of the NOSP Carlisle Housing Association **will** apply to Court for a possession hearing, and that in this circumstance they will be liable for Court Costs.

If it has not thus far been possible, at the time of serving the NOSP the Officer should also establish:

4.3.3. The reason why the arrears have arisen.

4.3.4. The details of the household composition.

4.3.5. Details of the tenant's income and expenditure (see proforma at Appendix 3).

4.3.6. That the tenant is claiming all the benefits they are entitled to.

4.3.7. The arrangements to be made for repayment of the outstanding balance.

4.3.8. Correct Service of the NOSP

If it is a joint tenancy, serve a notice on both parties. Always try to serve the NOSP on the tenant at their home. If the tenant is not at home, serve the NOSP by posting it and letter RA3 through the letter box in an envelope marked 'Private and Confidential'. A notice should never be handed to anyone else in the house except the tenant. A notice can also be sent by recorded delivery. This should be considered particularly where the tenant is likely to be aggressive or violent, or where the tenant is believed to be living elsewhere (in this instance it should also be served at the tenancy address).

After serving the NOSP, record on the back of the copy of the

notice the method of service, and sign it. The wording should read either:

Served by handing to (tenants full name) at (address) by (full name of Officer, job title, date of service), or Served by posting through the letterbox at (address) by (full name of Officer, job title, date of service).

It is not necessary to have a witness to service but if a witness does attend, he/she should also sign the copy of the notice. If arrears still exist after 12 months, a new NOSP should be served (letter RSNP).

4.4. Action Following Service of NOSP

4.4.1. Following service of the NOSP, computer records must be updated within 2 working days. Also enter expiry date in Officer's diary or on Calendar section of computer.

4.4.2. A new individual file is not necessary for the copy NOSP and any subsequent letters.

But Officers should hand the copy of each NOSP to their Line Manager, who will create one file of all NOSP's served. Copies of any subsequent letters should be attached to the NOSP held in this file.

4.4.3. 6 weeks arrears (7 weeks owing)

Two weeks after the service of the NOSP, if no contact was made with the tenant at the time of service, or if a repayment agreement has been defaulted upon, the Officer **must** visit, taking with them printouts of Orchard and Academy information, and secure an agreement for repayment.

4.4.4. 7 weeks arrears (8 weeks owing)

If there is a further or continued failure to meet the repayment agreement, a Court Action Warning letter should be hand delivered 1 week before the expiry of the NOSP (letter RA4).

4.4.5. 8 weeks arrears (9 weeks owing)

Expiry of NOSP – flagged by reminder on computer calendar, or by diary entry. Officer to review the account. Options:

a) **Account cleared.**

Cancel NOSP. Send letter RA6 and update Orchard and (if one exists) take all information out of arrears file and place in house file. If the arrears clear at any time within the 12

months for which the NOSP is valid, a new NOSP must be served if payments lapse again.

b) **Agreement for repayment in place, arrears reducing satisfactorily.**

Send letter advising NOSP still valid for 12 months, but provided payment terms are kept to, NOSP will remain suspended.

If the tenant subsequently does not keep to the agreement and arrears start to increase, Officer **must** refer to Line Manager to consider for Court action.

c) **Relatively low static arrears**

Refer to Line Manager for consideration for 'small claims' action in County Court.

d) **Arrears have increased, or not reduced satisfactorily.**

If the tenant is still awaiting assessment of Housing Benefit claim and all the information required has been provided by the tenant the Line Manager must 'fast track' the claim. Officer **must** refer to Line Manager for Court action.

NB It is impossible to overemphasise the importance of reviewing the action to be taken on expiry of the 4 weeks after service of NOSP **at the correct time.**

Officers **must** flag or diarise all their cases so that they do this exercise **immediately** on expiry of the NOSP, then refer any cases needing Court action to their Line Managers without delay.

5. PURSUING COURT ACTION

See also Appendix 4

8 Weeks arrears (9 weeks owing).

If there has been no satisfactory response from the tenant the Officer must:

- a) Send letter APO to tenant advising a Court application has been made, and
- b) Complete Particulars of Claim (see Appendix 4 for details) and provide:
 - 3 copies of NOSP
 - 3 copies of Tenancy Agreement
 - 3 signed copies of Statement of Truth
 - Print-out of rent account

- Covering memo (see Appendix 4)

If an Officer is about to terminate his or her employment with Carlisle Housing Association, for the period of their notice they should also complete an Affidavit swearing service of the NOSP.

The Line Manager is responsible for checking details thoroughly and referring to Legal Department by close of business on Tuesday for processing that week. Both the Line Manager and Officer are responsible for monitoring any delays in Court date. Between referral to Legal Dept and receiving notification of Court date (usually 6-8 weeks) the tenant has some options which can result in:

5.1. Clearance of the account – Line Manager to cancel proceedings with Legal Dept. If Court date has already been set, Line Manager to attend Court to seek an Order for costs only.

Officer to advise tenant by letter of cancellation of proceedings but that if an application is successfully made for costs, these will be added to their rent account. **OR**

5.2. Substantial reduction in arrears. Satisfactory repayments being made. Officer to consult with Line Manager on whether cancellation is appropriate. Line Manager to decide **OR**

5.3. No reduction or unsatisfactory reduction in arrears. Await Court hearing date. Officer notify tenant by letter RA5 when date received.

6. BEFORE COURT HEARING

6.1. Once a Court date is obtained, the Line Manager should notify the Officer who must update the Arrears File record and Orchard and send letter RA5 to the tenant.

The Officer must also **visit** the tenant and urge them to:

- a) complete the reply to summons form sent by the Court;
- b) attend Court on the date, and
- c) seek legal representation.

He/She should **not** say to the tenants that they do not need to attend Court. It is clearly better for both Carlisle Housing Association and the tenant that they do so. The only exception to this is where we would be seeking an Order for court costs only. Any offer which the tenant makes in order to repay the arrears should be noted – subject to the Court hearing. It should be stressed to the tenant that the repayment of the arrears plus the rent is due **weekly**. It is up to the Court, however, to decide what the tenant can afford to pay. Any payments

made by the tenant will, however, show to the judge their best intention to pay.

- 6.2. Line Managers will attend Court hearings on a weekly rota basis. When a copy of the tenant's 'Reply to Summons' is received by the Line Manager for a team, he/she should forward Court instructions (see Appendix 4) to the Legal Department **and** the duty Line Manager by lunchtime on the day before the Court hearing.

The instruction memo should be accompanied by:

- 3 printouts of the rent account (balances only)
- 1 printout of the rent account (arrears and balances)
- 1 printout of the Housing Benefit Overpayment sub-account (if this applies)
- an explanation of any large overpayment

If the Line Manager feels we need Housing Benefit representation, contact the Manager, Housing Management, who will consider sending the Housing Benefit Advisor.

On the morning of the hearing the duty Line Manager should take 3 up to date copies of the rent account to Court, along with the Arrears file containing the NOSP, arrears interview forms showing any agreements for repayment and copies of any correspondence to and from the tenant dating from the date the NOSP was served.

- 6.3. On receipt of the Court date the Line Manager should also add this to the list of those cases to be notified to the Head of Tenancy Services for permission to evict (see Appendix 5).

7. THE COURT HEARING

16-18 weeks arrears

- 7.1. The duty Line Manager should arrive in plenty of time to discuss the cases with the Association's legal representative.

All contact with the tenant or their legal representative should be through the Association's legal representative.

At Court the duty Line Manager will be required to swear an oath that the Particulars of Claim (including service of the NOSP) are correct or that it is reasonable to recover possession. This may include proving the arrears if they are disputed.

If the service of the NOSP is challenged by the defence solicitor, we should simply ask for an adjournment. It is unlikely, however, that this situation will arise.

The Court can make one of the following types of Order.

7.2. Outright Possession Order

Usually granted where there have been no payments before and none have been offered, or the property has been abandoned. The Order is usually effective 14 or 28 days after the Court hearing.

7.3. Suspended Possession Order

Where the tenant has made an offer to repay by returning the 'Reply to Summons' form, or an agreement has been reached at Court, the judge will be inclined to suspend an Order for 28 days, or as long as the terms of the Order to repay are met.

We should always ask for repayment terms on a **weekly** basis.

7.4. Order for Adjournment

To allow more enquiries to be made.

The Legal Dept will forward details of the judgement when received from Court

7.5. Court Costs should be added to a rent account within 2 working days. A copy of the Order to be placed in the Arrears file, and Orchard updated. Officer should send letter RA7 or RA8 (dependent on the type of Order) to the tenant.

7.6. Once a Possession Order is granted, under no circumstances should we alter the terms of the Order.

If the tenant's circumstances change, direct them to apply to the Court for a review of the repayments.

Similarly, if we are aware the tenant's income has significantly increased we should apply to the Court for repayments to be increased.

7.7. Officers must check adherence to all their Possession Orders weekly.

7.8. When all the arrears and costs are cleared the matter is closed. The Officer should write to the tenant confirming that the terms of the Order have been met and that it is no longer in force.

8. BREACH OF COURT ORDER

8.1. 15–17 weeks arrears (earliest)

Where the tenant misses 1 payment in line with the terms of the Court Order, the Officer will send letter RA9 to the tenant requiring payment is made to bring the Court Order up to date.

8.2. 16-17 weeks arrears (earliest)

Officer passes case to Line Manager if breach not remedied. Line Manager requests the Legal Dept to instigate Bailiff action (see Appendix 4).

As well as the instruction for bailiff action memo, the following should be submitted – printout of rent account, calculation of breach (i.e. by how much money the Order is adrift)

8.3. At this stage the **Line Manager should also notify the Section Head of the request.**

It should take approximately 4 weeks to obtain an eviction date.

9. THE PRE-EVICTION PROCEDURE

20-21 weeks arrears (earliest)

The Legal Dept will notify each Line Manager of the eviction date. He/She should then notify the Officer and the Section Head. If the tenant is known to be violent the Court Bailiff must be informed.

The Officer must:

9.1. Arrange for a joiner to be available to change the locks at the time set for the eviction.

9.2. Write to the tenant (letter RA10) within 2 working days of being advised of the eviction date.

9.3. Visit the tenant to advise the eviction is still ongoing and check that he/she is prepared, has made the necessary removal arrangements, and to obtain a forwarding address. This must be done at least 1 working day before the eviction.

9.4. Advise the Special Needs Officer of the impending eviction so that preparations can if necessary be made for an assessment under homelessness legislation.

9.5. Confirm the appointment with joiner on the day of the eviction.

Before the eviction the tenant may make an offer of payment::

9.6. If full payment is offered, the eviction can be cancelled. The Line Manager should notify the Legal Dept in such cases. They in turn will notify the Court Bailiff.

Cheques should only be accepted if made payable by a Bank, Building Society or reputable employer. The Line Manager must ensure the cheque has not been returned unpaid before asking Legal Dept to cancel the warrant.

9.7. If the tenant is able to offer any part payment of the debt, continue, but advise then to seek legal assistance so that they can apply to Court to have the eviction suspended.

9.8. If the eviction is cancelled the Officer must advise the joiner.

10. THE EVICTION AND POST EVICTION PROCEDURE

10.1. In normal circumstances it will be necessary for only the Officer to attend the eviction in order to formally accept the property from the Bailiff and to ensure it is secured by the joiner.

The exception to this may be if it is known that belongings have been left in the property. If so it is probably better for both the Line Manager and Officer to attend, so that both can take and sign an inventory of the items remaining (see para 10.3 below).

10.2. The tenant must be advised that they must remove all belongings from the property.

Any access later to remove belongings must be supervised by the Officer (and another member of staff if considered necessary). Under no circumstances must tenants be given the keys back.

10.3. If the tenant has left items in the property, the Line Manager and Officer must, at the time of taking possession, take and sign an inventory of all items left and take photographs to show their condition.

The keys must be held for **up to 4 days** before passing through the void procedure **if a tenant has made an appointment** to remove larger items of furniture after the eviction.

10.4. Any furniture not removed should be listed on the inventory and placed in storage by the Officer. The former tenant must be notified in writing at his/her forwarding address that he/she will have 28 days from the date of the letter to retrieve the items, otherwise they will be disposed of by Carlisle Housing Association.

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Please ask for: >
Direct Line: >
Our Ref: RA1

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Dear >

RENT ACCOUNT SUMMARY

Rent Account No. >	Current Weekly Rent £>
Current Arrears £>	
Other Debts £>	
Total Amount Owed as at Week Ending >	£> *

I note from our records that your rent payment is overdue, and your rent account is now in arrears.

I must request you to clear these arrears within the next 7 days, or alternatively, contact this office to make arrangements to reduce this amount.

If you are awaiting the award of Housing Benefit, you should contact me so that I can offer advice to prevent potential arrears whilst your claim is being assessed.

Please ignore this letter if you have cleared these arrears.

* This amount excludes the rent due for this week.

Yours sincerely

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Please ask for: >

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Direct Line: >
Our Ref: RA1a

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Dear >

RENT ACCOUNT SUMMARY

Rent Account No. >	Current Weekly Rent £>
Current Arrears £>	
Other Debts £>	
Total Amount Owed as at Week Ending >	£> *

I note from my records that you are in receipt of Income Support and therefore, currently have no rent to pay. However, there are arrears of £> still outstanding on your rent account.

Please contact me as soon as possible so that arrangements can be made to clear this debt.

Failure to respond will result in appropriate legal action being taken to recover the amount outstanding.

* This amount excludes the rent due to this week.

Yours sincerely

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Please ask for: >

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Dear >

RENT ACCOUNT SUMMARY

Rent Account No. > **Current Weekly Rent £>**

Current Arrears £>

Other Debts £>

Total Amount Owed as at Week Ending > **£>** *

As you have failed to respond to my previous correspondence or to clear your debt to Carlisle Housing Association, the enclosed Notice of Seeking Possession is served upon you as a first step towards evicting you from your home.

The Notice is the legal document required before any Court action commences and will remain in effect for 12 months unless the account is cleared during this period.

If you have not made arrangements with me to clear these arrears it is essential you do so before the date specified in Paragraph 5 of the Notice.

Your account will be reviewed after this date and Carlisle Housing Association will consider applying for a Court Order which will incur costs. These costs will be added to your account for repayment.

If you feel that you may be eligible for Housing Benefit, I would suggest that you apply for this as soon as possible.

Due to the seriousness of the situation I would urge you to contact me as soon as possible to discuss this matter further.

* This amount excludes the rent due for this week.

Yours sincerely

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Please ask for: >

Direct Line: >

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Our Ref: RA4

Dear >

RENT ACCOUNT SUMMARY

Rent Account No. > Current Weekly Rent £> Current Arrears £> Other Debts £>

Dear >

RENT ACCOUNT SUMMARY

Rent Account No. > Current Weekly Rent £>

Current Arrears £>

Other Debts £>

Total Amount Owed as at Friday > £> *

A Notice of Seeking Possession was served on you on > . Since this date you have failed to clear the debt of to contact me.

I have to advise you that if you do not contact me before the notice expires an application will be made to the County Court for possession of your property. This could mean you losing your home.

An Order for Possession is the legal requirement prior to eviction.

Due to the seriousness of the situation I would urge you to contact me as soon as possible to discuss this matter further.

If you wish to seek advice from an outside agency, a list is attached for your information.

* This amount excludes the rent due for this week.

Yours sincerely

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Please ask for: >

Direct Line: >

Our Ref: RA5

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Dear >

RENT ACCOUNT SUMMARY

Rent Account No. >	Current Weekly Rent £>
Current Arrears £>	
Other Debts £>	
Total Amount Owed as at Week Ending >	£> *

I advised you recently that Carlisle Housing Association had applied for a Court Hearing in order to obtain a Possession Order in respect of your home for the outstanding debt to the Association.

You will have received notification from the Court of the hearing date which is set for >. I shall also ask for Costs as detailed on the summons, to be awarded to Carlisle Housing Association and charged against you.

It is very important that you make me fully aware of your circumstances so that these may be considered by the Court, if you are unable to clear the debt in total.

You should make every effort to make regular payments so that the debt can be cleared as soon as possible.

Due to the seriousness of the situation I would urge you to contact me as soon as possible to discuss this matter further.

You may wish to seek advice on this matter from an outside agency, an address list is attached for your information.

* This amount excludes the rent due for this week.

Yours sincerely

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Please ask for: >
Direct Line: >
Our Ref: RA6

Dear >

I note from my records that you have successfully cleared your rent arrears. The Notice of Seeking Possession served on > is now cancelled.

I must advise you that if your rent account accrues arrears again I will have no alternative but to instigate further recovery action.

If you have any further queries regarding this matter or if you have difficulties with your rent payments in the future please do not hesitate to contact me at this office.

Yours sincerely

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Please ask for: >
Direct Line: >
Our Ref: RA7

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Dear >

RENT ACCOUNT SUMMARY

Rent Account No. > Current Weekly Rent £>

Current Arrears £>

Other Debts £>

Total Amount Owed as at Week Ending > £> *

I am writing to confirm the decision made recently by the County Court on > in respect of the repossession of your home.

A copy of the Order will be sent to you by the Court.

It was agreed that as long as you pay all current weekly rent plus £> per week off your arrears Carlisle Housing Association will not seek to evict you from your home.

Unless you keep to this agreement as directed by the Court, Carlisle Housing Association can evict you at a future date.

The Court also decided that Court Costs of £> should be paid by you. This has been added to your rent account.

Due to the seriousness of the situation I must urge you to comply with terms of the Court order.

If your financial circumstances change you must contact me immediately.

You may wish to seek advice on this matter from an outside agency, an address list is attached.

* This amount excludes the rent due for this week.

Yours sincerely

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> Please ask for: >
> Direct Line: >

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Dear >

RENT ACCOUNT SUMMARY

Rent Account No. >	Current Weekly Rent £>
Current Arrears £>	
Other Debts £>	
Total Amount Owed as at Week Ending >	£> *

I am writing to advise you that arrangements have been made to have you evicted from your home on > at >

It is your responsibility to remove all furniture and belongings from the property. Carlisle Housing Association will not accept responsibility for any of your possessions left in the property.

You must advise Carlisle Housing Association of your forwarding address. If you have nowhere to go, you may wish to consult the Council's Homeless Persons Officer for advice and assistance. I have enclosed a leaflet on homelessness for your information.

Carlisle Housing Association is required to recover any debt left on your rent account as Former Tenants Arrears. This can be paid off in instalments. I have to advise you that the Association will not re-house you until this debt is cleared.

You may wish to seek advice on this matter from an outside agency, an address list is attached.

There may still be time to suspend this eviction order if you can make a substantial payment towards your rent arrears. If you feel this is possible I would urge you to contact me as soon as possible to discuss this matter.

* This amount excludes the rent due for this week.

Yours sincerely

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Please ask for: >
Direct Line: >

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Our Ref: RA11

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Dear >

RENT ACCOUNT SUMMARY

Rent Account No. >	Current Weekly Rent £>
Current Arrears £>	
Other Debts £>	
Total Amount Owed as at Week Ending >	£> *

I note from my records that your rent account is showing arrears.

This is because your monthly payments are being paid late. All rent payments should be weekly or in advance. To clear your account you will have to pay £> and make regular payments of £> every month thereafter.

If you wish to discuss this matter, please do not hesitate to contact me at the above address.

* This amount excludes the rent due for this week.

Yours sincerely

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Please ask for: >
Direct Line: >

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Our Ref: BAIL

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Dear >

RENT ACCOUNT SUMMARY

Rent Account No. > Current Weekly Rent £>

Current Arrears £>

Other Debts £>

Total Amount Owed as at Week Ending > £> *

I write to advise you that the Court Bailiff has been instructed to recover the tenancy of your home. He will contact you directly to inform you of an eviction date.

You are responsible for Bailiff costs of £> which have been added to your rent account.

There may be still time to prevent this course of action if you can make a substantial payment or alternatively apply to the County Court to have the warrant suspended.

You may wish to seek advice from an outside agency, an address list is attached.

* This amount excludes the rent due for this week.

Yours sincerely

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Please ask for: >
Direct Line: >

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Our Ref:

Our Ref:

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Dear >

Dear >

RENT ACCOUNT SUMMARY

Rent Account No. >

Current Weekly Rent £>

Current Arrears £>

Other Debts £>

Total Amount Owed as at Week Ending >

£> *

I write to advise you that an application has now been made with the County Court for an Order of Possession. The Court will contact you shortly to advise of the date of the hearing.

Please contact me urgently to discuss this matter further.

* This amount excludes the rent due for this week.

Yours sincerely

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Please ask for >

Please ask for: >

Direct Line >

Direct Line: >

Our Ref: RSNP

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Dear >

RENT ACCOUNT SUMMARY

Rent Account No. >	Current Weekly Rent £>
Current Arrears £>	
Other Debts £>	
Total Amount Owed as at Week Ending >	£> *

You will recall that in the last 12 months Carlisle Housing Association served a Notice of Seeking Possession as the first step towards recovering the tenancy of your home.

As the debt has not yet been cleared we enclose a new Notice of Seeking possession to cover the next 12 months. This is a legal requirement.

No further action will be taken provided you maintain repayments as agreed.

If you do not maintain regular weekly payments Carlisle Housing Association will be left with no alternative but to take legal action to reduce the amount outstanding.

* This amount excludes the rent due for this week.

Yours sincerely

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Appendix 2

FORMER TENANT ARREARS RECOVERY PROCEDURE

1. INTRODUCTION

These procedures aim to give clear guidance to staff in order to recover former tenant arrears quickly and successfully.

This requires effective termination of the tenancy, and the promotion of a culture where it is made clear to tenants that they will be expected to repay outstanding arrears and that when they are not paid, recovery action will follow.

2. TENANCY TERMINATION INTERVIEW

2.1 When a tenant or next of kin contacts the Association by telephone he/she should be referred to the Officer for the appropriate area.

The Officer should then interview the person either in person in the office or at home or by telephone within 1 week of notification. The form attached at the end of this section should be used as an information checklist by the Officer.

2.2 If the notification of the tenancy termination is made in writing, the Officer should within 1 week either telephone (if the number is known) or send a standard letter to arrange a home visit at a specified time and date.

2.3 The aim is to arrange an interview to agree the tenant expiry date, secure a forwarding address (and telephone number if possible) advise on payment due up to the end of the tenancy, agree the terms and method of repayment, and advise the outgoing tenant that if these are not maintained recovery action, including the use of a debt collection agency or an application for a County Court Judgement, will follow.

2.4 The tenancy termination interview is an essential part of the former tenancy arrears recovery process.

All vacating tenants or next of kin should be seen by an Officer . Keys must not be accepted by any staff unless this interview has taken place.

2.5 Where arrears are likely to be owed by an outgoing tenant the Officer at the tenancy termination interview, should note on the repayment agreement form the arrangements for either clearing the arrears in full

before the tenancy expires, or the terms of a repayment agreement once the tenancy has ended. He/she should also record details of the tenants employer/weekly income/welfare benefits received. These notes should be recorded on Orchard along with any other information about the tenant's likelihood of paying, e.g. if it was an eviction, did they ever contact us?

At the interview stage the tenant should also be advised that where payments are not made, recovery action would follow. Any repayment agreement made at the interview should be confirmed in writing before the tenancy expires.

2.6 Where the tenant has died and was in receipt of Housing Benefit, arrears will arise due to the 4 week Notice to Quit period and the cessation of Housing Benefit upon death.

The Officer should explain this to the executor/administrator/ next of kin and record this on Orchard along with all conversations concerning the ending of the tenancy and the return of keys.

They should also be notified of the amount outstanding up to the end of the tenancy.

If the executor or next-of-kin are aware at this stage that there is no estate they should be asked to complete standard letter (FTA6) to speed up write-off of the debt.

3 FAILURE TO PROVIDE NOTICE OF TERMINATION

Where the tenant departs without giving notice the Officer will begin the procedure to determine whether the property is abandoned.

If it has been abandoned, once the tenancy is ended at the expiry of Notice to Quit the Officer (having checked the house file, and with neighbours and other possible sources of a forwarding address) should record details of the enquiries undertaken on Orchard.

4 MONITORING AND SUPERVISION OF FORMER TENANT ARREARS

Successful recovery depends on regular monitoring of accounts and prompt recovery action.

The Officer monitors the weekly printout to begin action on any new cases arising and to continue action on existing older cases. The Line Manager meet regularly with the Officer to discuss the progress of cases, set priorities for dealing with the workload and give advice and decisions to resolve problems.

The recovery method depends on:-

- the method of the termination of tenancy
- the size of the debt, and
- whether the debt is recoverable and economic to pursue.

5. PROCEDURES WHERE FORWARDING ADDRESS IS KNOWN

5.1.1 If a repayment agreement has been reached at the tenancy termination interview the Officer will monitor the account weekly after the tenancy ends to ensure that payments are regular. No action will be taken while the agreement is maintained.

5.1.2 Any arrears below £10 to be immediately listed for write-off.

5.1.3 Where no agreement for repayment was made and the arrears are over £10 the Officer to send letter FTA 1 within 14 days of the tenancy ending.

5.1.4 If there is no response to this within 14 days or an agreement made under FTA 1 is breached the Officer to send FTA letter 2 giving the former tenant 7 days to respond.

5.1.5 If there is no response to FTA 2, the Officer will send either:

- Letter FTA 3 warning that a summons for County Court action is being sought – for cases where the debt is over £250 and we have information which suggests the debtor is likely to have the resources to pay
or
- Letter FTA4 warning that the case is being passed to Carlisle Housing Association's approved Debt Collection Agency – for cases over £10.

5.1.6 After 14 days from the posting of letter FTA3 or FTA4, and if there has been no response or an unsatisfactory response from the tenant the Officer must either:-

- a) Pass to the Debt Collection Agency on a referral form, with a covering letter, or
- b) If we have some information about the former tenant's financial resources but we want to confirm whether it is correct, and we already have a suspended possession order and Money Judgement against them, ask the County Court for an Oral Examination of their financial circumstances. A fee of £40 is payable, to be added to the former tenant's debt. Advice from the Court suggests we should try to use these minimally, or

- c) If we do have sufficient information about the former tenant's financial resources, consider in consultation with the Line Manager whether an application to the County Court for a Money Judgement is appropriate (a fee is again payable, to be added to the debt).

If the Court orders the defendant to pay the money and the defendant does not pay, the Officer and the Line Manager should consider whether to ask the Court to enforce the Judgement by means of

- An Attachment of Earnings Order if the defendant is working
- A Garnishee Order if the defendant has a bank, building society or other account
- A Charging Order if the defendant has other income, e.g. investment earnings
- A Warrant of Execution if the defendant has any goods or assets which can be taken and sold at auction.

But first the Officer and the Line Manager should consider whether we are likely to get the money and Court fee from the defendant (an additional fee is payable for taking the above actions), and whether the defendant owes other people money or has other County Court Judgements against them.

If the Line Manager concludes on the basis of all the information available that the debt is irrecoverable, it should be passed to the Debt Collection Agency.

If claims are defended by the debtor the legal assistance should be sought in pursuing these cases.

Cases which are transferred to the debtor's home Court, which may be outside the area may be pursued on a selective basis.

For cases below £5,000 which are defended, the costs will be limited to the summons fee and fixed costs. It may therefore not be possible to recover the full cost of pursuing the matter. This should be taken into consideration by the Line Manager when deciding whether it is worthwhile to take legal action.

5.2 Debt Collection Agency

Following the termination of the tenancy and either no response to attempts to make a repayment agreement, or breach of an agreement made following the sending out of letter FTA 2 the case is referred by the Officer to the debt collection agency 14 days after letter FTA 4.

The Officer should diarise 12 weeks forward and advise the Line Manager of all referrals during their regular meetings.

Once the 12 weeks has expired the Line Manager will decide whether to allow the debt collector more time, or whether to take the case back with a view to write off, or if the debt is over £250, County Court Action.

The cost for the debt collection service is £5 for an unsuccessful trace, £30 for a successful trace, 20% of amount collected as a result of letter or telephone pursuit and 38% of amount collected as a result of personal pursuit.

The costs will be borne by Carlisle Housing Association if the collector is successful in tracing and/or recovering the debt.

If a trace is unsuccessful it should be listed for write-off.

If the debt is recoverable, whereabouts are known and exceeds £250 consideration should be given to recovery via a Money Judgement from the County Court (subject to the deliberations outlined in para 5.1.6(c)).

All reports received from the debt collector should be discussed by the Officer and Line Manager at their regular meeting.

6. PROCEDURES WHERE FORWARDING ADDRESS IS UNKNOWN

- 6.1 Any debt below £10 is to be immediately listed for write-off.
- 6.2 If the debt is £10-£100 and after 3 months, attempts at tracing by the Officer have proved unsuccessful, it should be listed for write-off.
- 6.3 If the debt exceeds £100 and after 3 months attempts at tracing by the Officer have proved unsuccessful it should be passed to the debt collector for trace and collection.
- 6.4 Unsuccessful tracing by the debt collector after a further 3 months will lead to the case being taken back by the Officer for a final attempt to trace. If after 1 month this is unsuccessful the case should be listed for a write off.

The time-scale noted below will apply.

7. WRITE-OFF PROCEDURES

Debts will be written off if they fall into the following categories.

7.1 Forwarding Address Is Known

- 7.1.1 Debt is under £10 and uneconomic to pursue.
- 7.1.2 Debt is £10-£50 and there has been no response to letters sent by the Officer or following referral to Carlisle Housing Association's s approved Debt Collection Agency.
- 7.1.3 Debt is over £50 and information gained by the Debt Collection Agency or (for cases over £250) as a result of an Oral Examination of the former tenants' financial resources by the County Court, suggests the debt is irrecoverable.
- 7.1.4 The former tenant's specific circumstances mean that he/she is unlikely to ever have the funds to clear the debt because he/she is
 - a) Deceased, and there is insufficient money in the estate.
 - b) Hospitalised and in long term care.
 - c) In prison.
 - d) In Social Services or private residential care.
 - e) Bankrupt.
- 7.1.5 The tenant has left the country.
- 7.1.6 The case is 'statute barred', i.e. it is over 6 years old and no attempt has been made to pursue repayments.
- 7.1.7 The proviso is made that if the circumstances of the tenant change in respect of case types 7.1.4 c) and 7.1.5 and their whereabouts thereafter become known to use, we should write back on to our records the outstanding debt and pursue as normal.

7.2 Forwarding Address Is Unknown

- 7.2.1 Debt is under £10 and uneconomic to pursue.
- 7.2.2 Debt is £10 - £100 and after 3 months, attempts at tracing by the Officer have proved unsuccessful.

7.2.3 Debt is over £100 and there has been no successful response following referral to the Debt Collection Agency after 3 months, and no successful trace by the Officer after a further 1 month.

7.3 A schedule of cases for write-off will be prepared quarterly by the Officer in liaison with the Line Manager .

The schedule will include a name(s), address, account number, termination date, amount and a brief summary of the reason for requesting the write-off.

For monitoring purposes these should be coded to:-

- a) Uneconomic to pursue.
- b) Deceased tenant – unable to recover.
- c) Debt collector unable to trace or collect.
- d) No means to pay (multiple debts, residential home, bankruptcy, etc)
- e) Case is statute barred.

8. EXISTING MONEY JUDGEMENTS

In some cases, e.g., evictions, there will be an existing Money Judgement which was obtained at the same time as the Possession Order.

If this has not been complied with and only if we know the new address of the former tenant (after tracing by the Debt Collection Agency if necessary) the Officer and Line Manager should review the case to see whether it is worthwhile asking the Court to enforce the Judgement.

This may be after an Oral Examination of the former tenant's financial resources and could be chosen from a number of methods as outlined in paragraph 5.1.5 c).

Once a decision is made to enforce the Money Judgement, the Officer should complete the Court application, and attach any relevant paperwork including a copy of the N.O.S.P. (or N.T.Q. if an abandonment), the checklist taken at the Tenancy Termination Interview (including any repayment arrangement made), a copy of the Tenancy Agreement and a copy of the Possession Order and Money Judgement.

If attendance at Court is required, this should be the role of the Officer.

The Line Manager should review progress on these cases with the Officer at their regular meeting.

Once it is clear that the debt is irrecoverable cases should be written-off.

9. DEATH OF A TENANT

- 9.1 If an executor of a Will, or next of kin are interviewed at the tenancy termination stage and there is no estate he/she should be asked to complete the letter (FTA6) confirming this.

The debt can then be immediately listed for write-off.

- 9.2 Where a tenant has no next of kin or no-one dealing with their affairs the debt should be listed for write-off.

- 9.3 Where we are aware of someone dealing with the affairs of the deceased, the Officer should send letter FTA5.

If there is no response to this within 4 weeks, send the same letter out again.

10. NEW TENANTS WITH FTA DEBT

There will be some cases where Carlisle Housing Association agrees to rehouse people with an existing Former Tenants Arrears debt. The Officer is responsible for checking the outstanding balance at the time of sign up, entering this information into the Tenancy Agreement, and ensuring the balance is transferred from the previous rent account to the new one (the main account).

- 10.1 In any such cases if a redecoration allowance is payable on the new tenancy this must be offset against any FTA balance outstanding.

- 10.2 For any person who signs a new tenancy agreement which specifically requires them to pay off a FTA debt and they fail to keep to their agreement. Officers should consider one of the following options:

10.2.1 Direct Payments from the Benefits Agency

- 10.2.1.1 Direct payments of FTA are only permitted if a situation has resulted in a tenant with rent arrears being allowed to transfer from one property to another without a break in tenancy and the move was necessary to preserve the tenancy, e.g. a decant as part of redevelopment programme, or a Management Transfer to resolve a serious housing management problem.

The Officer must in this case issue a covering letter stating the reasons behind the transfer and that it was a necessary move in order to preserve the

tenancy.

10.2.1.2 Direct payments will not be allowed where for example:
a tenant leaves a property owing rent arrears, is then rehoused under homelessness legislation, and the former tenant arrears is made part of the new tenancy agreement.

This is because the original tenancy was not preserved, and the debt is not considered to be a priority debt.

10.2.2 Application for Possession Proceedings

This should be done in the same way as applications for current arrears, although the Line Manager should make clear to the Solicitor that the arrears relate to a former tenancy.

10.2.3 Referral to the Debt Recovery Assistant

This option could be used, for instance, where a person owing FTA has 'slipped through the net' and their debt repayment was not included as a specific condition of the new Tenancy Agreement.

This is so that consideration can be given to pursuing the debt through the 'small claims' procedure in the County Court. Officers should record on Orchard the date they referred the case.

10.2.4 **TENANCY TERMINATION INTERVIEW CHECKLIST**

1. Tenancy: Joint/Sole _____

Full Name & Title of Tenant _____

Date of Birth _____

Full Name & Title of Partner _____

Date of Birth _____

2. Household

Family/Couple/Single

3. Tenants form of income at time of tenancy end:

Benefits as main source of income? YES/NO
If so which FC/IS/JSA. Proof seen? YES/NO
Housing Benefit award outstanding? YES/NO
How much? .YES/NO
HB appeal pending? YES/NO

If employed – Job? _____

Employer? _____

Partner's Job? _____

Employer? _____

4. Address _____

5. Tenancy rent account number _____

6. Reason for rent arrears: _____

7. Forwarding address/contact address E.g. Mother _____

Tel No: _____

Where address is not the former tenant(s) forwarding address please state the relationship of the household, E.g. mother, friend etc _____

8. Tenancy end date _____

9. Amount owing at tenancy end date £ _____

10. Reason for tenancy ending (where known) _____

11. Agreed repayment: £ _____ in full
£ _____ per week/month

Signed _____ Date _____

Employer's _____
Partner's Job? _____
Employer's _____

Address _____
Tenancy rent account number _____
Reason for rent arrears _____
Forwarding address/contact address E.g. Mother _____
Tel No. _____

Where address is not the former tenant's forwarding address please state the relationship of the household E.g. mutual friend on _____

FTA 1

Dear

RE:- FORMER TENANCY -
(ADDRESS)

TENANCY TERMINATED ON
(DATE)

ACCOUNT NO. AMOUNT OWED £

My records indicate the above account is still outstanding.

Please pay the outstanding sum within the next fourteen days quoting the above account number when making payment.

If you are unable to clear the sum in one payment and wish to pay by regular periodic instalments please complete, sign and return the enclosed Pro Forma to:-

If you re-apply for a Carlisle Housing Association tenancy in future whilst any of these arrears are outstanding you may not be eligible and you may be excluded from the housing register.

If you have any query regarding the above account please do not hesitate to contact me.

Yours sincerely

FTA 2

Dear

NOTICE OF COURT PROCEEDINGS

RE:- FORMER TENANCY - (ADDRESS)
TENANCY TERMINATED ON (DATE)
ACCOUNT NO. AMOUNT OWED £

The above debt remains outstanding despite my previous reminder.

I must therefore advise you that unless payment is received **in full with in the next seven days**, either legal proceedings for the recovery of this debt in a County Court or referral of the debt to a Debt Collection agency may occur.

If the debt is referred to the County Court, your current debt will be increased by the addition of Court and solicitors costs. If judgement is sort and granted additionally your name will be entered onto the Registry of County Court Judgements stating you have been subject to Court Action making it difficult for you to obtain future credit, mortgage, hire purchase or other loans.

If you have any query regarding the above account please do not hesitate to contact me.

Yours sincerely

FTA 3

Dear

NOTICE OF COURT PROCEEDINGS

RE:- FORMER TENANCY -
(ADDRESS)

TENANCY TERMINATED ON
(DATE)

ACCOUNT NO.

AMOUNT OWED £

I refer to my previous letters advising you that an amount of £ is still owed on your former tenancy.

I must advise that your failure to respond means that I will now seek a summons from the County Court in order to begin legal action to recover this amount from you.

I would remind you that once a judgement is granted against you your name will be entered onto the Registry of County Court Judgements and may make it difficult for you to obtain future credit ,mortgage, hire purchase or other loans.

The current debt will also be increased by the addition of Court costs and Solicitor Fees.

In addition, if you re-apply for a Carlisle Housing Association tenancy in future whilst any of these arrears are outstanding you may not be eligible and you may be excluded from the housing register.

Yours sincerely

Declaration Of No Estate

Reference (address) Account No	(name) Formerly of Amount Owed
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I confirm there are insufficient funds in the estate of (name) to either clear or reduce the debt owed.

I am:

- * The executor of the estate of the deceased
- * The administrator of the estate of the deceased
- * The next of kin of the deceased but with no authority to act as an executor or administrator of the estate

*Please delete any alternative which does not apply to you.

Name _____

Address _____

Telephone Number _____

Signature _____

Date _____

AGREEMENT OF INTENT TO REPAY FORMER TENANT ARREARS

Name: _____

Current Address: _____

FORMER TENANCY DETAILS

Name: _____

Address: _____

Account No: _____ Tenancy Ended: _____

Account Balance: _____ Dated: _____

I hereby agree to pay £ ___ per week/month to the above account in order to discharge the debt due.

Using one of the following methods:

- a) Direct Debit
- b) Standing Order
- c) Giro Card to pay at Post Office in Carlisle

I understand that should this agreement be broken Carlisle Housing Association may commence legal proceedings for recovery of the debt in full.

Signed: _____

Dated: _____

Complete and return immediately.