

confederation of co-operative housing

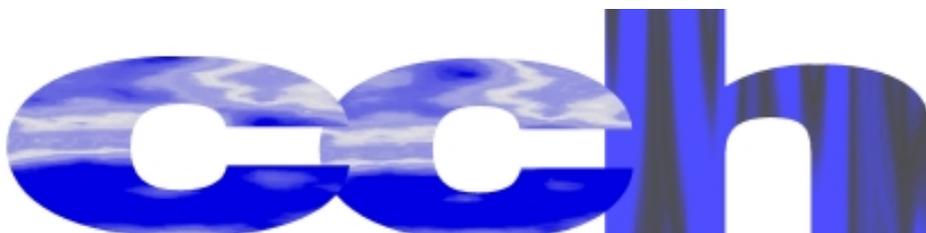
unit 19
41 old birley st.
hulme
manchester
M15 5RF
t: 0161 232 1588
f: 0161 226 7307
e: info@cch-uk.org
w: www.cch-uk.org

rents

model policies & procedures

introduction

- These rules are for co-ops managed by general meeting. This means that the whole membership forms the governing body of the co-op.
- It is assumed that day to day management is done via working groups



01:03:01

rent arrears policy

introduction + principles

Rent arrears have many adverse affects on the Co-operative, as rent is the main source of income.

High rent arrears can result in services such as repairs being affected, thus endangering the provision of safe and comfortable housing.

As a responsible Landlord The co-op will aim to maximise the rental income of the Co-op and provide an efficient housing management service to tenants. To achieve this tenants will be contacted at the earliest possible stage about rent arrears; not only by writing letters, but also carrying out visits to tenants homes.

To keep rent arrears to a minimal amount the Co-op will take any necessary action in line with procedure to achieve this aim.

Tenants whose rent arrears result in court action being taken against them will be responsible to pay the costs of such action, in addition to their existing arrears. Legal costs responsibility will apply whether the court action results in eviction or a suspended possession order.

Following a suspended possession order – if tenants miss 3 consecutive weekly or one monthly payment in accordance to the court order and fail to bring their account up to date within 7 days thereafter – the Co-operative will immediately apply to execute the warrant for eviction.

Housing Benefit claimants – the Co-op will aim to assist any tenant applying for benefits. If rent arrears are totally due to a housing benefit delay and the benefit department officially confirms this, no action will be taken.

However, claiming housing benefit remains the sole responsibility of the tenant. If a tenant fails to provide the relevant proof of circumstances to the benefit office or fails to make a claim the resulting rent arrears will be the tenant's responsibility to pay and action will be taken against them accordingly.

The following policy details how this policy will be put into practice

tenant's right to appeal

A Tenant has a right to appeal to the Co-op at any stage of action - if they feel they have been unfairly treated or the Co-op has failed to act in accordance to this Policy and procedure.

Please refer to the complaints policy and procedure for more details.

1 rent setting policy

1.1 Throughout these policies, 'rent' means the total rent payable under the tenancy agreement, consisting of net rent, service charges and water charges.

1.2 Rents will be set annually on the financial year end of the Co-op. Rent rises will comply with Housing Corporation Guidance.

1.3 Net rent and service charges will be set according to the formula agreed by The co-op. The formula is calculated using a points system. Each flat has been allocated a points rating by weighing positive and negative features of each property, such as number of bedrooms and aspect. Your weekly net rent and service charges are arrived at by dividing the required annual expenditure of the co-op by 52, and then by the total number of points for all the properties. This gives a value per point. Your net rent and service charges are then arrived at by multiplying this value by the number of points for your flat.

Your water charge is arrived at by a rating system which is then corrected at the end of each year by dividing the total annual water bill for the building by the number of residents.

1.4 Members/tenants must receive at least four weeks written notice of any changes to their rent. The notice shall specify water charges, and net rent and services charges for the premises, as well as the total rent payable.

2 rent collection policy

2.1 Rent is charged weekly. Members/tenants may pay their rent monthly, two weeks in advance and two weeks in arrears, by prior agreement with the Rents Working Group.

2.2 The co-op will accept payment in any of the following forms

2.2.1 By standing order, direct debit or other monthly mandate

2.2.2 By cheque or postal order to the co-op's address/mailbox

2.2.3 By cash, on condition that the tenant pays the cash directly into the co-op's bank account or into the Post Office by bank giro credit. Tenants wishing to pay by cash will receive a paying in book with two receipt-stubs, one for the co-op and one for the tenant. Cash rent will be deemed not to be paid until the co-op receives the receipt-stub stamped by the bank or Post Office at its address/mailbox.

Where the bank or Post Office levies a charge, it will be the tenant's responsibility to pay this, in addition to the rent due.

3 confidentiality

All personal records regarding rent payment and collection will be treated as strictly confidential by the Rents Working Group. All members of this group will sign a confidentiality statement, any breach of which will incur automatic suspension of membership from the Rents Working Group and the matter being referred on to a General Meeting of the co-op.

4 input procedure

4.1 The rent group receives relevant bank account statements showing rent paid in on a weekly basis.

4.2 If bank statements are not received the rent group will make enquiries with the bank within one week and bring to the attention of the Secretary any gap in statements lasting more than one week.

4.3 Upon receipt of the statements, the figures are entered onto the appropriate account sheets, cards or spreadsheets.

5 rent arrears policy

5.1 All the tenants and members of a fully mutual coop have a contractual legal and financial obligation to pay all rent regularly when it is due. The financial viability of the co-op depends upon the maximum rental income, and so in the interests of all members, rent arrears cannot be condoned. The Rents Working Group will make efforts to make personal contact with tenants who fall into arrears. However it is emphasised that it is the tenant's responsibility to contact the Rents Working Group to make any arrangements for repaying their arrears.

5.2

Arrears will be deemed actionable and the rent arrears recovery procedure followed, as a general rule, when the tenant is TWO WEEKS in arrears. This will be triggered when:

□ A weekly paying tenant is 2 weeks in arrears,
A monthly paying tenant has missed one monthly payment,

A tenant on Housing Benefit is 5 weeks in arrears. It is accepted that Housing Benefit payments are paid one month in arrears: where they are one week late in arriving (i.e. five weeks in arrears) they will also be deemed actionable arrears.

5.3 rent arrears procedure

5.3.1 A standard 'first letter' (see manual) will be sent to the tenant(s) informing them that they are now in arrears, and that full payment must be received within 7 days. The letter will detail current Rents Working group members to contact if necessary. A dated, signed copy of the letter will be retained and filed by the Rents Working Group.

5.3.2 If arrears are not paid in full or a payment plan agreed within 7 days of the first letter being posted, a 'second letter' will be sent. This letter will request that the tenant(s) must either pay in full the rent due within 7 days or contact a member of the Rents Working Group to arrange and sign a satisfactory repayment agreement. The letter also emphasises that legal action will be pursued by the co-op if the tenant continues to be in default and does not arrange a repayment agreement with a member of the Rents Working

Group. A signed dated copy of this letter will be retained on file by the Rents Working Group.

5.3.3 Repayment agreements will be agreed in accordance with the payment plan policy. In general they must not normally allow the arrears to be repaid over a period of longer than one year. Repayment agreements must be made in writing and signed and dated by both the tenant(s) and an authorised member of the Rents Working Group. One dated, signed copy will be given to the tenant(s), the master copy must be retained on file by the Rents Working Group.

5.3.4. If the repayment agreement is not adhered to at any point within its lifetime the tenant(s) will be sent the standard 'third letter'. Similarly, if the tenant(s) has not paid off the arrears in full and has made no contact with the Rents Working Group, the 'third letter' will be sent.

5.3.5 Wherever possible the 'third letter' should be hand-delivered on a personal visit to the tenant(s) by two members of the Rents Working Group. This letter demands payment within 7 days or before the next General Meeting (whichever is the shorter period). In the letter the Rents Working Group will inform the tenant(s) that they will be asking the next General Meeting to sanction the issuing of a Notice to

Quit. This gives the tenant(s) 28 days before terminating their contractual tenancy. The 'third letter' will include the date of the General Meeting. A dated signed copy of the 'third letter' is retained on file by the Rents Working Group.

5.3.6 This 'third letter' will give the tenant a time and date when the rent officer will call to discuss matters. At that meeting the rent officer will discuss their arrears and attempt to agree a repayment plan. If the tenant does not make themselves available for such a meeting or if no payment plan is agreed the rent officer proceeds to the next stage

5.3.7 The Rents Co-ordinator will ensure that the issue is placed on the agenda of the next General Meeting for the 'closed' section of the meeting. The rent officer will liaise with the Rents Administrator to ensure that a report is produced for the meeting. The rents co-ordinator will attend the meeting to present the report (or delegate another member of the rents group).

5.3.8 The tenant(s) confidentiality will be respected at all times, including at the General Meeting. The Rents Working Group will report on details of the arrears and action taken so far, but will not identify the tenant(s) or premises concerned. The chair of the meeting should make clear to ALL members that they should not identify the tenant(s) concerned, without the tenant(s) express consent.

5.3.9 Once the General Meeting has agreed to issue a Notice to Quit to the tenant(s), it will be necessary for confidential information about the tenant(s) to be available to other members. Confidentiality will not be abandoned. However, Rents' Group confidentiality may be extended to other members who will be involved in progressing legal action. This will be done strictly on a 'need to know' basis, where it is necessary in order to progress this procedure. Confidential information about the tenant will not be made generally available to all members, and will not be revealed in General or other meetings. Any member receiving such confidential information must keep it confidential. Any breach of confidentiality will result in the member being automatically suspended from their working group and the matter being referred to a general meeting.

5.3.10 The tenant(s) may waive the right to confidentiality, for example if they wish to make representations to the General Meeting. The tenant(s) may make representations to the meeting in writing, in person, or by appointing another member to represent them.

5.3.11 If the tenant(s) complies with the terms of the 'third letter' (by paying their arrears in full or reaching a satisfactory arrangement to pay) then further action will be suspended. Should the tenant(s) then default on the Arrears Repayment Agreement (see 5.2) then the Rents Working Group will ask the next General Meeting to sanction the issuing of a Notice to Quit.

5.3.12 In appropriate circumstances, the GM has the discretion to agree to the issue of an NTQ where the rents policy has not been followed in full.

6 SERVING THE NOTICE TO QUIT

6.1 Once the General Meeting has agreed to issue a Notice to Quit the Rents Group will draw up the Notice. The Notice to Quit must comply with all of the necessary legal requirements. These are that it must:

- be in writing

- give at least 28 days notice

- expire on Sunday or Monday

- contain the full name and address of the Co-op as landlord

- contain the full name and address of all of the tenants
- contain certain 'prescribed' information

- be signed on behalf of the co-op

6.2 In order to ensure that these requirements are complied with, a standard form of Notice to Quit will be used (see manual, letter 4). A letter will be sent to the tenant with the Notice to Quit, setting out what arrears the tenant has and what (if anything) they can do to avoid further action being taken against them. This letter should also make clear that, from the date the Notice to Quit expires, no further rent payments will be accepted from the tenant but that they remain liable to pay us 'mesne profits' until they leave the property. A standard letter will be used (see manual, letter 5).

6.3 The Rents Group will consult with the Legal Officer when drawing up the notice to quite to ensure that the Notice to Quit and letter are legally correct.

6.4 In any future correspondence to the tenant(s), the Co-Op must ensure that we continue to be clear that the tenant(s) is paying only mesne profits.

6.5 The Notice to Quit and accompanying letter should be served on the tenant(s) within 14 days after the General Meeting deciding to issue it.

6.6 The Rent Officer and the Rents worker will serve the NTQ and letter by hand to the tenant(s)'s home. The Rents officer and worker will then record the date and time they did this on the standard form (see

manual). This record should be signed and kept on the tenant(s)'s rent file along with a copy of the Notice to Quit and the letter.

7 procedure following the issuing of a ntq

7.1 PAYMENTS OF 'RENT' AFTER NTQ

Once the Notice to Quit expires, the tenant(s) contractual tenancy with the co-op comes to an end and we cannot accept any further rent from the tenant. However the tenant remains liable to pay us 'mesne profits' for the property as long as they continue to live there. Mesne Profits will be set at the same rate as the gross rent for the property. The tenant is of course also liable to pay their arrears.

7.2 Once a NTQ has been issued and expired, any letters to the tenant will refer to mesne profits, rather than rent. Letters must make clear that it is mesne profits and payments of arrears which are being accepted, not rent.

8 GM Decisions on Further Action

8.1 Once the GM has decided to issue a NTQ, the matter will remain on the agenda for future meetings, and the GM will monitor the progress of the matter. The Rents Group will report back and make recommendations about what should happen next, depending on the tenants actions and circumstances.

8.2 IF THE TENANT PAYS THEIR ARREARS IN FULL:

if, within the next 4 weeks, the tenant pays off their arrears in full the Rents Group would normally recommend that no further legal action be taken at that time. However this may not be always be appropriate eg if the person has a particularly poor payment history and/or has had other Notices to Quit served on them in the past. [If no further legal action is to be taken against the tenant, the GM will be asked to agree to them being granted a new tenancy with The co-op. In the case of a person who is paying off their arrears by instalments, they should not be offered a new tenancy until their arrears have been paid off in full.]

8.3 IF THE TENANT DOES NOT PAY THEIR ARREARS IN FULL:

if the tenant(s) do not pay off their arrears within the period of the Notice to Quit, there is an assumption in favour of beginning legal action as soon as possible except in exceptional circumstances. The Co-Op will go to court to obtain a possession order against the tenant(s) (and anyone else living in the flat). However the tenant cannot be evicted until a warrant for possession is granted by the court.

8.4 Shortly before the Notice to Quit expires, the Rents Officer will write to the tenant(s), telling them that the next General Meeting will be asked to confirm that to confirm that possession proceedings should be started against them. This letter should also make clear that, from the date the Notice to Quit expires, no further rent payments will be accepted from the tenant but that they remain liable to pay us mesne profits until they leave the property (See manual - letter 6). In any future correspondence to the tenant(s), the Co-Op must ensure that we continue to be clear that the tenant(s) is paying only mesne profits.

8.5 Once the Notice to Quit has expired and the tenant(s) has not cleared their arrears or come to a repayment agreement, court action to obtain a possession order will be started as soon as possible. The Rents Group will ensure that the issue is placed on the agenda for the next General Meeting, in the closed session.

8.6 The Rents Group will ask the GM to agree that legal proceedings to evict the tenant should begin as soon as possible, and the GM should be asked to give a mandate that:

all necessary steps can be taken, up to and including applying for a warrant for possession and the use of bailiffs to carry out any eviction

instructing the co-op's solicitors to bring these possession proceedings on our behalf, including agreement that the solicitors may sign the Statement of Truth and other court forms on the co-op's behalf

agreeing a small group of people who have a mandate to give instructions to and liaise with our solicitors (this group will usually include the Rents Co-Ordinator, the Legal Officer and the Rents worker).

8.7 During the discussion at the GM, the rules on confidentiality must be observed see Standing Orders - section 11. The affected tenant/s has the right to

speak at the GM, or for a third party to speak on their behalf, or to write a letter to be considered by the meeting.

8.8 Once the decision to begin legal action has been taken, it will not be necessary for the GM to make specific decisions about each stage of the proceedings, as this decision includes a mandate that all necessary steps may be taken. The GM will be kept informed about the progress of legal proceedings.

8.9 The Rents Group and/or the affected tenant/s may ask for the matter to be reconsidered if appropriate, bearing in mind the presumption in favour of pursuing legal action.

9 Procedure following decision to begin legal action

9.1 Immediately following the agreement of the General Meeting, the mandated group of 8.6, will instruct our solicitors to begin possession proceedings. These proceedings will include a claim for all rent arrears, and for our legal costs.

9.2 Our solicitors will then apply to the County Court for a possession order, and obtain a date for a hearing of the case. All members of the relevant working groups will co-operate with our solicitors to ensure that they have all of the necessary paper work and information,

9.3 The mandated group will ensure that the proceedings are begun as soon as possible, and that the Co-op is kept fully informed of the progress of the proceedings. Members of Rents and Legal Officer will attend the court hearings with our solicitors, and give evidence at the hearing if necessary.

9.4 If, before the date of the court hearing, the tenant(s) clears their arrears in full or makes a satisfactory offer to repay them, the co-op may agree to the possession proceedings being suspended on condition that the arrears (and our legal costs) are repaid.

9.5 If a suspended possession order is agreed and the tenant misses 2 consecutive weekly or one monthly

payment, they will be asked to repay in full within 7 days or we will proceed to apply for a warrant for possession as outlined below

9.6 If no satisfactory repayment agreement is reached, the County Court will be asked to grant us a possession order and set a date for possession, and also to make an order for payment of the arrears and legal costs.

9.7 If the tenant does not leave the property by the date set by the court for possession, our solicitors will then be instructed to apply to the court for a warrant for possession. Once a warrant has been obtained, court bailiffs will then be instructed to evict the tenant(s) and any other occupiers.

9.8 The GM will be kept informed about the progress of legal proceedings, but it will not be necessary for the GM to make decisions about each stage of the proceedings, as the GM which took the original decision to start legal action will have given a mandate that all necessary steps may be taken.

10 Former tenant arrears

10.1 If a tenant(s) leaves a property, owing any money to the Co-op including rent, legal costs, recharges for damage or unauthorised alterations we will take all steps possible to pursue them.

10.2 All members will be expected to co-operate with this for example by providing information on the former tenants whereabouts and circumstances.

10.3 On GM approval, where necessary or appropriate, we will take steps to obtain and/or enforce any court order on former tenants for any monies owed.

10.4 The Legal Officer will pursue these matters and instruct our solicitor where necessary on instruction from the GM..

payment plans

policy

LIAISON GROUP

1. An ad hoc liaison group will be formed including at least one rent officer, and at least one person representing the legal and finance groups respectively. The liaison group will issue guidelines to rent officers, and monitor the results.
2. The liaison group will set limits of discretion for rent officers. Rent officers remain free to insist on higher payments wherever this seems appropriate, but plans for lower amounts do not become binding on the co-op unless specifically ratified by GM.
3. The liaison group may vary the guidelines in the light of experience, and any such variation will not affect any plan made before that change.

REVIEW BY GM

4. Either the tenant concerned or their rent officer may refer a case to the next GM. In this case any plan being offered by the tenant must be started pending the GM and will be accepted by the coop for an interim period of four weeks in the first instance. The GM may, where appropriate, accept plans lower than the guidelines, or may insist on a plan that is higher than the guidelines. If the tenant's proposed plan is not ratified the payments must be increased at the end of the interim four-week period to the figure determined by the GM.

REVIEW BY CO-OP STAFF

5. Where tenants and rent officers are unable to agree an action plan they may ask for the case to be reviewed by the co-op's staff.
6. Wherever possible the review will occur in a meeting between the tenant, rent officer, and the member of staff. The tenant may invite one other person to attend the review meeting.
7. In emergency co-op staff may act as rent officers in negotiating and accepting payment plans.
8. Where a tenant has approached co-op staff concerning their rent, confidentiality is extended to allow the staff member the right to discuss that case with their line manager.

EXPIRY AND REVIEW

9. Plans made under this new policy will expire six months after the due date of the first payment and meanwhile will not be affected by any further change in policy.
10. During the last month of a plan it will be reviewed in accordance with policy at that time, and a new plan agreed to take over on expiry of the old.
11. Plans will be reviewed earlier if the tenant's housing benefit status changes, or if their income rises or falls sufficiently to affect the level of payments due.
12. If exceptionally a plan expires while still under review, payments should be continued at the old rate until a new agreement is made. A lapse in payments will result in the arrears procedure being restarted.

HOUSING BENEFIT AND ARREARS

13. The liaison group will issue guidelines to rent officers concerning what level of proof is needed of a tenants Housing Benefit claim, including proof of the claim being made, or its plausibility, and of the tenant's efforts in chasing the claim.
14. The liaison group may also issue guidelines concerning collection of arrears while a tenant is waiting for a Housing Benefit claim to be decided.

ACCELERATED PLANS AND AMNESTY

15. When a tenant's previous bad faith is considered at a GM, the meeting will have the option to impose an accelerated plan. This does not prevent the meeting considering any other course of action.
16. The minimum payments for an accelerated plan will be one and a half times the standard plan for the same situation. Accelerated payments will continue for six months, after which if the payments have all been properly made the tenant will be entitled to ask for a standard payment plan. Unless a Notice to Quit has been issued the tenant will then be put on a letter 2 (suspended).
17. If acts of bad faith occur after 1st July 2000, or if earlier acts of bad faith have not been declared by the 31st August 2000, they must be brought to the GM immediately following their discovery.