Phoenix Community Housing Co-operative

Rent Arrears Policy

1 Aims

1.1 Phoenix aims to ensure the efficient collection of rent from its members and to take prompt, effective action in cases of rent arrears. Our aim is to collect the rent due without subjecting members to any unnecessary distress in the process.

1.2 Phoenix depends on the income from rent to pay for and maintain the services provided. It is therefore essential to the finances of Phoenix that rent is collected.

1.3 Rent must be paid weekly or monthly in advance where possible. If a member falls into arrears Phoenix make contact and act through letters and direct contact to give the member the opportunity to clear the arrears or come to an arrangement for their repayment.

1.4 Phoenix will advise members on their entitlement to welfare benefits and, where needed, assist them in making claims. It remains the responsibility of each member to ensure all claims are submitted correctly and on time

1.5 Whenever possible Phoenix will seek to have Housing Benefit paid directly to the Co-operative.

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1.6 Phoenix does not use distraint (seizure of tenants' goods). If, following letters and broken agreements, rent is not paid, Phoenix will seek possession of your home through the courts.

1.7 While dealing with all members' rent arrears by the same procedure, Phoenix understands that rent arrears arise for many different reasons and will strive to take individual circumstances into account where this is compatible with equal opportunities, fair treatment for all members, and good financial management.

1.8 Phoenix will make sure that members can pay their rent in ways that are convenient to them and that are consistent with the safety of staff and the security of the office. Phoenix cannot accept cash payments for rent except in exceptional circumstances such as before a Court hearing.

1.9 Members who are in rent arrears will only be allowed to transfer tenancies at the discretion of Mancom and the Manager. Members who are in rent arrears, and who want a transfer, will be expected to be already keeping to an agreement to clear the outstanding arrears.

1.10 Unrecoverable debts from former tenants will be passed to a credit agency for

collection.

2 Procedure

2.1 Rent arrears reminder letters will be sent to members who have fallen into arrears.

2.1.1 After a member has missed one payment of rent, the office will send out a standard reminder letter (Arrears Letter 1).

2.1.2 If no response has been received one week after sending Arrears Letter 1, the office will send out a further standard reminder letter (Arrears Letter 2).

2.1.3 If no response has been received one week after sending Arrears Letter 2, the office will send out a further standard reminder letter (Arrears Letter 3).

2.1.4 A Notice to Quit will be sent when the member is 4 weeks in rent arrears.

2.1.5 A Notice to Quit will also be sent should a member be 4 or more weeks in arrears for a period of longer than 6 weeks.

2.1.6 Clause 12.2.2 of the Co-operatives Tenancy Agreement makes mention of the term “Serious Rent Arrears” for this policy this term means any tenant/member who is in Rent Arrears equivalent to 8 weeks or more of the gross rent charge.

2.2 The issuing of rent arrears letters is at the discretion of the Office Manager.

2.3 Phoenix will always attempt to make contact (by phone or visit) to obtain an agreement to clear a member’s arrears. The aim is to prevent debts increasing. By visiting and phoning a member it is hoped that

- Arrears will be agreed
- Payments will be obtained
- Appropriate advice will be given
- Agreements will be made to clear the arrears
- Consequences of arrears will be explained

2.4 If a member agrees to an arrangement for clearing the arrears, that the Office Manager regards as realistic and acceptable to the Co-operative, no further action will be taken. Members will be warned that failure to keep to the arrangement will result in further action, which in some cases will mean possession proceedings in the county court. The minimum acceptable payment for those on Income support or alternative benefits will be in line with DWP guidelines.

2.5 Where a Notice to Quit, or Notice Seeking Possession, has been served and the arrears are not decreasing, or agreements have been broken the Office Manager will apply for a possession order in the county court.

2.6 The Office will produce a WEEKLY report on all members in rent arrears. The Office Manager will provide the Management Committee with a monthly report on the Co-op's rent arrears performance.

2.7 The service of all notices, the initiation of legal proceedings for eviction, and other legal actions must be authorised by the Office Manager. Action will be taken promptly as soon as this authorisation is given.

2.8 On the expiry of a Notice to Quit, or Notice of Seeking Possession, the premises will be checked to see if the member is still in residence. Members who are still occupying the premises will be advised in writing that they have seven days to either clear, or make a written agreement to clear, the arrears, before the Co-op applies to the Court for a possession order. If no acceptable agreement is negotiated and maintained, the Office Manager will initiate legal proceedings.

2.9 In all cases involving Phoenix tenancies, Phoenix will seek an outright possession order. In cases where arrears are under £500, legal action may be suspended prior to the hearing if the tenant has signed a written agreement and the Office Manager is satisfied that the tenant will make regular payments sufficient to cover their rent and arrears. In most cases, however, Phoenix will seek an outright possession order.

2.10 The Office Manager, except in special circumstances, will attend court and give evidence to obtain a possession order. The Office Manager will instruct the solicitors to apply for a bailiff's warrant, and monitor the time taken for the warrant to be issued.

2.11 When the Office Manager has been notified of the bailiff's appointment for eviction they will inform the member. The Maintenance Worker will be available to secure the property if necessary. In most circumstances the Maintenance Worker will attend the eviction. If it is believed that the member is still in occupation the Office Manager will also attend.

2.12 Members will be advised that they may appeal to the Management Committee against a decision to take legal proceedings. Appeals must be in writing (and the only matters that can be considered are breaches of the arrears procedure or factual inaccuracies, which concern that particular member's case, in the reports presented to the Management Committee).

2.13 Phoenix will continue to pursue cases of ex-members' rent arrears using any appropriate methods, including using debt collecting agencies, existing contacts and forwarding addresses.

2.14 Examples of some of the standard relevant letters are attached to the back of this policy.

3.0 Housing Benefit

3.1 Housing benefit problems are a frequent cause of rent arrears. Responsibility for a Housing Benefit claim lies with the member but the Finance Worker and Office Manager can help members as follows:

- Providing assistance with the completion of a Housing Benefit form.
- Asking members to sign an authority to permit Phoenix to discuss the progress of a claim with the local authority
- Provide proof of rent for housing benefit within 24 hours of the request

3.2 Fourteen days after a new claim for Housing Benefit has been made, the office will contact the local authority to check on the progress of the claim.

3.3 If the local authority doesn't pay, or only pays partial Housing Benefit, the office will contact the member about how the arrears are to be cleared, suggesting, if appropriate, an appeal against the Council's decision.

3.4 To protect Phoenix's financial position a Notice to Quit will be served prior to Housing Benefit making a final decision on that claim if the member fails to keep in contact and doesn't provide evidence about the progress of their claim. A Notice to Quit will also be served if a member's arrears are at a seriously high level; this figure to be determined by the Office Manager.

3.5 Except in those cases where following the Council's decision the arrears remain at a seriously high level (defined in 3.4 above) a Notice to Quit will not be served where the local authority has provided proof that a member will be entitled to Housing Benefit. This proof must state the date when the claim starts, the amount of HB and, if the member is eight weeks in arrears, that the payment will be made directly to Phoenix.

3.6 If the only arrears are those caused by the Housing Benefit being paid four weeks in arrears a Notice to Quit will not be served.

3.7 If a Housing Benefit claim is outstanding, and there are arrears on the account, the member will be required to make a minimum payment in line with DWP guidelines for those on Income Support/Job Seekers Allowance.

4 **Rent arrears direct**

4.1 The DWP can pay arrears directly on behalf of members who are in receipt of income support or Job Seeker Allowance. To qualify for direct deductions the rent

arrears must be at least four times the weekly charge.

4.2 If the member has not paid the full weekly charge for more than eight weeks direct deductions can be made automatically if requested by the landlord.

4.3 The payment is a fixed weekly amount deducted from JSA and Income Support at source.

4.4 If a member is in arrears and on full Housing Benefit but is more than eight weeks in arrears the office will write to them asking for consent to apply for direct payments. If this is refused and an agreement is not being maintained direct payments will be applied for without consent. This will protect members' homes in the long term.

The Management Committee has agreed this policy:

Signed _____ Date _____

(on behalf of the Management Committee)

Dear

Re: Arrears of £640.94

You are currently in arrears of the amount stated above. Please note your rent is due weekly in advance. If you prefer paying monthly, you must pay a month in advance to keep your account in credit. If you have applied for Housing Benefit you must contact them to obtain news of your claim.

It is therefore imperative that you bring your account up to date by making a payment to clear your arrears in addition to your weekly rent due.

If you are unable to make the full payment, please contact me at the Phoenix Office.

Arrears Letter 2

Dear

Re: Arrears of £636.62

I note from our records that your account remains in arrears to the amount stated above.

Rent arrears are a serious matter for both you and Phoenix, it is essential that you maintain regular payments and avoid arrears.

Phoenix cannot afford to support members in arrears, as this increases our operating costs and the only way to cover these costs is to increase the Rents. This is unfair on those members who pay their rent regularly in advance.

If you are unable to pay the arrears immediately, you may enter into an agreement to pay in instalments.

Please do not ignore this letter, you must contact Phoenix as soon as possible to make an agreement to clear the outstanding amount.

If you have any queries please give us a ring at the Phoenix Housing Office.

Arrears Letter 3

Dear

Re: Arrears of £891.31

If, within the next seven days, you do not either clear your arrears, or enter into an agreement to clear your arrears, Phoenix will be obliged to serve a Notice to Quit for non-payment of Rent. As a Co-Op member it is your responsibility to make every possible effort to maintain your rent payments.

The arrears figure above takes into account any Housing Benefit payments due to the Co-op, therefore these arrears are your responsibility

If you fail to make immediate action, then, as soon as you are four or more weeks in arrears, or as soon as you have been two or more weeks in arrears for a period of longer than six weeks, you will be sent a Notice to Quit, and legal proceedings will be started to recover the debt.

You will also be liable for any legal costs associated with the eviction and debt recovery process. Once you are served your Notice to Quit you will have 28 days to pay off the arrears in full before you cease to be a tenant member of the Co-Op.

You are in a very serious position. If you have a genuine reason for falling into arrears we will do our best to help you, but if you do not contact us we will be forced to commence legal proceedings.

Please contact Phoenix as soon as possible

Notice to Quit/Letter Accompanying Notice to Quit

I regret to enclose a Notice to Quit as you have not made any payments to clear your arrears.

Please contact me immediately regarding the Notice to Quit. When it expires you will no longer have a tenancy.

To stop any further action, you must either pay off all your arrears or contact me to make an arrangement to pay in instalments.

On the expiry of the Notice I will have no alternative but to issue court proceedings to gain possession of your home. If Phoenix has to go to court you will be responsible for the legal and court costs involved in this process. These costs are likely to be over £500.

Letter Advising Tenant of Court Action

Dear

Arrears of £2,752.13

Despite a number of letters and a Notice to Quit that has been served and has expired, your account is still in arrears of the amount stated above.

I have today instructed our Solicitors to issue legal proceedings against your tenancy, this could result in you losing your home. We will also seek to reimburse our costs for these proceedings, which could amount to a further £800.00.

Should you agree to make regular payments, we will ask for a suspended order, which will mean that as long as the agreed payments are met no further action will be taken against you. If the arrangement is broken we can apply to the Court to have the order executed.

Please do not ignore this letter and contact me at the Phoenix Office upon receipt of this letter.

Yours Sincerely