Evictions Policy
(Ref: HM13)

Purpose of Policy: The purpose of this Policy is to outline circumstances in which the Association will consider eviction action.

Policy Monitoring Details	
Department:	Housing Management
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Status:	Group
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Planned Review Date:	July 2029
Regulatory Outcomes being achieved:	Scottish Social Housing Charter: 2 Communication 6 Neighbourhood and community 7,8,9 Access to housing and support 11 Tenancy sustainment 13 Value for money
Association Values	▪ Committed ▪ Agile ▪ **People-Focussed** This Policy clearly sets out that eviction action is a 'last resort' when dealing with tenancy breaches ▪ Professional
Relevant Legislation	• Housing (Scotland) Act 2010 • Housing (Scotland) Act 2014 • Housing (Scotland) Act 2025 • Human Rights Act 1998
Tenant Consultation Required:	No
Equalities Impact Assessment	Initial

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1.	**Introduction**	
	1.1	The Association aims to use eviction as an action of 'last resort', pursued only where all other attempts to resolve a situation have been unsuccessful. Only in very limited circumstances will the Association seek an eviction at an early stage in dealing with a case, and these are detailed in this Policy.
	1.2	The Association is committed to assisting the local authority to prevent homelessness and fully appreciates the costs involved in dealing with individuals and families who are made homeless as a result of eviction. However, the Association's only source of income is rental income and it is crucial, therefore, that this is maximised. With regard to anti-social behaviour, the Association also has a responsibility to those whose lives are being affected by anti-social behaviour, and perpetrators of serious anti-social behaviour have to accept the consequences of their actions.
2.	**Aims and objectives**	
	2.1	This policy sets out the circumstances in which the Association considers it appropriate to evict a tenant from their home and applies to all tenants of the Association.
3.	**Policy**	
	Eviction on the Grounds of Rent Arrears	
	3.1	Seeking decree for eviction on the ground of rent arrears can be relatively straightforward as it is easy to establish that rent has not been paid and the terms of the Tenancy Agreement have therefore been breached. It is important, however, that we also establish that eviction is a reasonable course of action, taking account of individual circumstances on a case-by-case basis.
	3.2	The Association has a Rent Collection and Arrears Policy in place that aims to address cases of non-payment of rent through preventative measures and early intervention strategies. This is supported by detailed procedures that offer guidance to staff dealing with rent arrears cases. These detail the importance of: ▪ Preventative action through the pre-allocation interview and post-allocation visit processes; and ▪ Early intervention, both for new tenants and existing tenants falling into arrears for the first time.

	3.3	Prior to initiation of legal action (through service of a Notice of Proceedings), the case must comply with pre-action requirements (in accordance with the Housing (Scotland) Act 2010). Subsequent referral to court will only be considered where a tenant fails to engage or fails to maintain an agreement reached for repayment of the outstanding debt.
	3.4	The procedures associated with the Rent Collection and Arrears Policy outline how cases should be dealt with once they have been referred to court, however it is recognised that not all cases will fit neatly into this framework and it will be necessary to consider the most appropriate action on a case-by-case basis.
	Eviction on the Grounds of Anti-Social Behaviour (ASB)	
	3.5	Eviction on the ground of ASB is generally more complicated to deal with than rent arrears and this can be for a number of reasons, including: ▪ The availability of evidence that ASB has occurred; ▪ The willingness of tenants or others to report ASB; ▪ The willingness of tenants or others to appear as witnesses in court.
	3.6	Depending on the circumstances of the case, it is possible to consider alternatives to eviction as a means of resolving a situation, including alternative legal remedies.
	3.7	The Association has an Anti-Social Behaviour and Neighbour Disputes Policy that outlines the approach taken to dealing with reports of ASB. This is supported by detailed procedures that offer guidance to staff.
	3.8	The Policy outlines preventative measures that the Association can consider, and what alternative legal remedies may be available in particular cases.
	3.9	In most cases, any type of legal action will only be considered if other attempts to resolve the situation have failed. The Association is clear, however, that where there is evidence to support complaints of extremely serious ASB, immediate legal action may be taken.
	Eviction on other grounds	
	3.10	Eviction on grounds other than rent arrears or ASB is relatively rare. In many cases, even where other grounds are being considered, the tenant may also have rent arrears or be involved in ASB and all relevant grounds will be included in the Notice of Proceedings.
	3.11	The most likely other grounds that could be used are: ▪ Conviction for using the property for illegal or immoral purposes; or ▪ Condition of the property, including hoarding.
	3.12	The Housing (Scotland) Act 2014 introduced a process for 'streamlined eviction' to take place where a tenant (or a member of their household) has been

		convicted of an offence punishable by imprisonment for tenancy related antisocial or criminal behaviour. The Association would consider using this ground where the behaviour has seriously affected neighbours or the wider community.
	3.13	The Association will not develop a blanket policy in respect of these areas but will consider each case individually before deciding on the appropriate course of action. Issues to be taken into account in terms of assessing the reasonableness of eviction action (see below) will be key to determining how the case will be progressed.
	Early eviction action	
	3.14	Immediate or early legal action seeking recovery of possession will be taken in cases where there is clear evidence of serious antisocial behaviour or other behaviour that is having a significant detrimental impact on others.
	Reasonableness	
	3.15	As well as expecting landlords to demonstrate that a tenant has breached the terms of their tenancy agreement, the Sheriff will also consider whether eviction is a 'reasonable' way to deal with the issue.
	3.16	Requests for authorisation to proceed with a court referral require the Housing Officer to complete a court referral form outlining what alternative action has already been attempted or could have been considered together with a statement explaining why the referral is being proposed.
	3.17	When a case is at Court and decree for eviction is being requested authorisation must be obtained from the Housing Management Director prior to instructing our Solicitor.
	3.18	The Housing (Scotland) Act 2025 requires courts to consider whether a delay to an eviction would be reasonable if it was to: • Cause the tenant or a member of the tenant's household to experience financial hardship; • Have a detrimental effect on the health of the tenant or a member of the tenant's household; and • Have another detrimental effect on the tenant or a member of the tenant's household due to the tenant or the member of the tenant's household having a disability or terminal illness.
	Reasonableness – Rent Arrears	
	3.19	Factors that may be relevant to the 'reasonableness' argument in respect of cases involving rent arrears are as follows: - ▪ The amount of the arrears; ▪ The likelihood of the tenant being able to repay arrears and meet future rent payments;

		The length of time the person has been a tenant and any previous history of arrears; ▪ The reason for the arrears arising; ▪ Duties of the local authority that may arise following an eviction, particularly homelessness; ▪ The implications of eviction for any 'innocent' joint tenant; ▪ Any action taken by the landlord to assist the tenant to address the cause of the arrears.
	Reasonableness – Anti-Social Behaviour	
	3.20	Anti-Social Behaviour In trying to determine the reasonableness of taking eviction action in ASB cases, the following factors should be taken into account: ▪ The evidence that we have to support the proposed action; ▪ The nature of the ASB and the impact that this is having on others; ▪ The action that has already been taken to try to resolve the situation; ▪ Information regarding potential action that could have been considered and the reasons it has been rejected; ▪ Information regarding referrals to support or other agencies and the outcomes, particularly where the perpetrator has failed to engage.
	Reasonableness – Conviction for using the Property for Illegal or Immoral Purposes	
	3.21	The factors that we will take into account will include: ▪ The evidence that we have to support the proposed action; ▪ The nature of the offence, whether it has resulted in ASB and whether it has had any detrimental impact on others; ▪ The action that has already been taken to try to resolve the situation; ▪ Information regarding potential action that could have been considered and the reasons it has been rejected; ▪ Information regarding referrals to support or other agencies and the outcomes, particularly where the perpetrator has failed to engage.
	Reasonableness – Condition of Property	
	3.22	The reasonableness test here is likely to focus on:

		▪ Evidence that the physical condition of the property has deteriorated as a result of the tenant's failure to clean it, or otherwise look after it; ▪ Evidence that the condition of the property is having an impact on neighbouring residents; ▪ The action that has already been taken to try to resolve the situation
4.0	**Other relevant Policies**	
	4.1	▪ Allocation Policy ▪ Rent Collection and Arrears Policy ▪ Antisocial Behaviour Policy ▪ Hoarding Policy
5.0	**Publicising this Policy**	
	5.1	The policy will be available on the Association's website and hard copies will be provided on request. On request, the policy can be made available in alternative formats or languages. The policy will be promoted through the Association's newsletter and other publications.