



Response to Consultation

Date: 19 November 2009
Consultation: Managing Rent Collection

Introduction

The Northern Ireland Federation of Housing Associations (NIFHA) represents registered and non-registered housing associations in Northern Ireland. Collectively, our members provide 30,000 good quality, affordable homes for renting or equity sharing. Further information is available at www.nifha.org

Background

The Northern Ireland Audit Office undertook a value for money report on rent collection in the social rented sector. The report focussed mainly on the Northern Ireland Housing Executive but it also examined a sample of Housing Associations. One of the recommendations of the report was that the Department for Social Development produce updated guidelines for Housing Associations. The following is NIFHA's response to the paper Managing Rent Collection issued by the DSD on 16th September 2009.

General Comments

- A. The Federation welcomes this draft guidance, which usefully supplements its own publication "A Guide to Rent Arrears and Recovery Procedures for Registered Housing Associations".
- B. We agree that the maxim "prevention is better than cure" is highly appropriate in rent arrears management.
- C. The draft incorrectly implies that housing associations process Housing Benefit applications. It is also inappropriate for it to refer to Councillors in the guidance on legal action.
- D. The Federation questions the practicality and/or cost-effectiveness of a few aspects of the draft guidance. If full implementation of the draft guidance was made mandatory, it would have significant practical and staffing implications for Housing Associations in terms of systems, the development of operational procedures and management.
- E. For many years the credibility of housing associations' rent arrears management has been undermined by serious delays in the Courts and the Enforcement of Judgements Office. The Federation requests the assistance of the Department for Social Development in sponsoring reform to address

these problems. For example, could a facility for “fast tracking” more serious arrears cases be put in place?

- F. The proposed performance indicator for non-technical arrears is novel and untested. The Federation recommends that it be tested for a year or two before being made a permanent feature of the system. Secondly, the diverse nature of some of the client groups and the range of services required to support them means that a “one size fits all” approach to measuring rent arrears performance may not be capable of presenting a fair picture.
- G. As is the case with other Departmental guidance issued to registered housing associations, our members request explicit clarification if they will be criticised or sanctioned if they decide not to follow some aspects of the guidance because they consider it inappropriate in their circumstances.

Specific Comments

1. Policies and Procedures

In general this has implications for the number of staff and the grading of staff involved in the development and application of policies and procedures for managing rent collection.

2. Arrears Prevention

Advising tenants with regard to benefits to which they may be entitled implies that staff have detailed knowledge of a wide range of benefit entitlements. Given the complex and constantly changing nature of social security and tax rules, this would be very difficult and costly.

The support requested in our General Comment E would help Housing Associations develop a payment culture in their tenants.

To prevent arrears from accruing tenants should be given a choice of payment methods and where necessary Housing Associations should provide interpretation and translation facilities.

3. Arrears Recovery

It would be helpful to have a little more detail about when and what type of action is to be taken - for example the need to run reports from the arrears management system and going through the reports on a weekly basis to identify any problems.

4. Legal Action

The draft guidance is not clear about the process for implementing legal action i.e. the process to be followed when serving a Notice Seeking Possession. It needs to be demonstrated to the Housing Associations when to go for a County Court Judgement or Magistrates Court Judgement as this is not always clear and there are cost implications. Interviews and debt counselling should be always

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undertaken with tenants as early as possible in the arrears recovery process. Legal action should usually be a last resort when all other avenues have been explored as it is expensive and not always satisfactory.

5. Former Tenants Arrears

More detail would be helpful with regard to how these are to be processed. The procedure needs to be clear about if or when these are issued to a private sector recovery agent and when they can be written off. What does “Take cost-effective action to collect rent arrears from former tenants” actually mean?

6. Performance Review and Continuous Improvement

Housing Associations should have a running total of rent arrears which they monitor and change on a weekly / monthly basis showing a % increase or decrease over the previous period.

Developing Policies and Procedures

This reads like a checklist that would be used by an inspector / auditor examining how Housing Associations measure up against the policies and procedures they expect them to have in place. There is a need to clarify if this is the standard that all Housing Associations will be measured against. If this is the case then Associations need to be aware of that they will be measured in line with this and ensure they have procedures put in place and followed that match those expected of them by DSD.

Organisational Issues

The line “Do we provide tenants with practical advice on financial issues for example on areas such as budgeting, home insurance etc.” should be amended to say “home contents insurance”, therefore providing greater clarity with regard to the landlords and tenants responsibilities.

Communication with Tenants

Housing Associations complete NICORE information at the beginning of each tenancy and this should help formulate a profile for each tenant. It is important that communication with tenants either verbally or in writing is expressed in plain language using easily understood terminology or possibly even pictures.

Suggested Rent Collection Procedures

The draft guidance suggests that housing associations should issue monthly statements to tenants to allow them to manage their rent accounts more effectively. If imposed as a standard requirement, this would have considerable cost and staffing implications for housing associations and the inevitable delays

associated with changing Housing Benefit eligibility mean that the information issued in such statements could be misleading.

NIFHA feels these resources may be better utilised in preventative measures or management of those rent accounts that are in arrears. Housing Associations should be encouraged to provide tenants with additional statements on request and issue them more frequently to tenants with arrears.

More detail is needed with regard to instigation of legal proceedings as there are procedures that must be strictly followed. NIFHA's arrears guide provides information on this but may need to be updated.

Similarly, strict legal procedures must be followed with the EJO to ensure enforceability of evictions.

Rent Collection and Rent Arrears Targets

The target for Housing Associations to collect 98% of the total rent receivable seems unrealistic. In 2008/09 the NIHE was £14m in arrears with a rental income of £242m so its arrears represented 5.7%. In examining the 2008/09 performance indicator table for Housing Association rent management only 5 out of 34 Associations were within the 2% target.

The technical arrears target is outside the control of Housing Associations as these are dependant mainly on the processing of Housing Benefit. NIFHA therefore regards it as an unsatisfactory performance indicator.

Please refer to our General Comment F about the proposed non technical arrears target. NIFHA believes this novel indicator should be tried for one or two years before becoming official.

Miscellaneous Guidance

Housing Benefit Overpayments

Is there clear guidance for Housing Associations with regard to the overall responsibility for Housing Benefit Overpayments and the methodology for the recovery of these payments? If the overpayment is made directly to the tenant then the responsibility for the repayment is with the tenant. If the payment has been made directly to the Housing Association then they are liable for the repayment.

The Housing Executives Publication "A Landlords Guide to Overpayments" identifies responsibility for the recovery of an overpayment as, "An overpayment is recoverable from either the person who caused the overpayment, or the person who received the overpayment. It may, for example, be recovered from a landlord or letting agent to whom Housing Benefit has been paid directly. However the circumstances in which the overpayment occurred normally help establish who

the overpayment may be recovered from.” It is therefore incorrect to state that “Housing Associations will nearly always be deemed responsible for the overpayment of benefits.”

The unavailability of shared information because of data protection requirements between NIHE and Housing Associations is unhelpful to Housing Associations. The lack of information may increase the potential for arrears as there is normally a time lag between the processing of new claims and claims for change of circumstances and notification of the amount of benefit entitlement to the tenant.

In the first bullet point in this section the word “Encourage” is unenforceable. With regard to the second bullet point it would be unrealistic for each Association to undertake a benefit check for each tenant every six months. Housing Associations should be utilising their resources to focus on those tenants who are experiencing difficulties with payments, taking immediate action, through careful monitoring of Arrears Reports to prevent small arrears becoming big problems.

In the third bullet point it is stated that Housing Associations should “ensure that there is early notification should a tenant leave a property without notifying the Housing Association.” It is assumed that this is to prevent the abandonment of the property accruing arrears and therefore becoming a Past Tenant Debt with all the difficulties that this brings. Housing Associations ask tenants to give notice prior to the termination of their tenancy but realistically speaking they can do very little to prevent the occurrence of abandonments.

Submitted on behalf of NIFHA by:

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