



## DEBT RECOVERY POLICY

### 1. POLICY STATEMENT

- 1.1 Erimus Housing provides a broad range of services to tenants, leaseholders and other customers for which a charge is made. The income generated from these charges is a crucial part of the business and all appropriate measures will be taken to maximise the recovery of these charges.
- 1.2 The Debt Recovery Policy (“the policy”) brings together the previous policies relating to debt recovery, into a single document, which forms Erimus Housing’s approach to the recovery of income.
- 1.3 The main aims of the policy are to comply with the relevant legal requirements, Erimus Housing Standing Orders and Financial Regulations; ensure proper control procedures are in place where charges are raised and establish a framework for the recovery, amendment and monitoring of debtor accounts.
- 1.4 While there are differences between the types of services charged for, and the customers receiving those services, Erimus Housing will apply the following general policy principles to all types of debt:
  - Make all reasonable attempts to recover debts;
  - Contact customers at the earliest reasonable stage;
  - Be proactive in helping customers to pay debts;
  - Provide full timely information and advice to customers;
  - Work closely with other agencies to aid the recovery of debts;
  - Consult customers on the income recovery policy;
  - Monitor and strive to improve performance on income recovery.
- 1.5 To support these principles Erimus Housing will:
  - Comply with relevant statutory requirements and processes;
  - Advise customers in a clear way of debts outstanding;
  - Review the position on debts outstanding regularly, and provide appropriate reminders.
  - Encourage customers to contact Erimus Housing at the earliest opportunity if they have difficulty paying;
  - Provide a range of methods to pay and encourage regular payments;
  - Promote and encourage a wide range of cost effective and accessible payment methods;
  - Provide regular and on demand statements of customer accounts;
  - Keep customers informed of action taken in recovery of debts;
  - Ensure information provided is accurate, timely and in a format readily understandable by the customer;

- Aim to contact customers by their preferred means of contact;
- Provide information in large print, audio, Braille and other languages where required;
- Consult customers and provide information on reviews of income recovery services;
- Provide accessible and confidential facilities to discuss customer accounts;
- Deal with complaints on income recovery in accordance with Erimus Housing Comments, Compliments and Complaints Procedure;
- Ensure there are appropriate procedures in place for the recovery of debts;
- Utilise partnerships with external agents to trace and recover debts in appropriate circumstances;
- Follow Erimus Housing's procedure for write off or irrecoverable debts.

1.6 The Debt Recovery Policy complies with Erimus Housing Standing Orders and Financial Regulations, specifically Section 3.12 Income. The key controls in the policy are that:

- All monies are charged in accordance with approved rents and charges;
- Effective action is taken to pursue debts within defined timescales;
- Debts are only written off under approved powers and are properly accounted for;
- Income documents are retained for defined periods.

## **2. REFERENCE MATERIAL**

### **2.1 Internal**

The following key internal documents have been referred to and incorporated in the development of this policy:

- Erimus Housing Strategic Plan 2007-12;
- Annual Performance Management Framework;
- Erimus Housing Comments, Compliments and Complaints Policy. ;
- Service Plan;
- Customer Service Standards;
- Company Standing Orders and Financial Regulations.

### **2.2 External**

- KLOE 4 Housing Income Management;
- The Late Payment of Commercial Debts (Interest) Act 1998;
- Performance Standards and Regulatory Requirements issued by the Housing Corporation;
- Commission for Racial Equality's code of Practice for Rented Housing;
- Section 125 of the Housing Act 1996);
- Commonhold and Leasehold Reform Act 2002;
- Section 20 of the Landlord and Tenant Act 1985.

## **3 DEFINITIONS**

- 'Tenant' – a tenant or leaseholder of Erimus Housing;

- 'Charges applied' – The Debt Recovery Policy covers the following range of charges by Erimus Housing:
  - Current tenant rent and service charges;
  - Former tenant rent and service charges;
  - Commercial property rents;
  - Leaseholder services;
  - Rechargeable repair works;
  - Warden / Elderly Persons Support services;
  - Removal / void property clearance;
  - Court costs;
  - Sundry Debts.

#### **4. POLICY CONTENT**

##### **4.1 Prioritising Debts**

4.1.1 The range of services provided to customers can sometimes result in a customer receiving more than one chargeable service and owing Erimus Housing for more than one debt. In such circumstances, Erimus Housing will prioritise the debts for recovery in the following order:

- Current Tenant Rent Arrears;
- Current Tenant Recharges including Court Fees;
- Any other current debt;
- Former Tenant Arrears;
- Former Tenant Recharges;
- Any other former debt.

4.1.2 The arrangements to pay debts will recognise the multiple types of debt and the allocation of payments made will be in order of the priority set out above.

##### **4.2 Provide Advice, Assistance and Support**

4.2.1 Erimus Housing recognise that tenants may have multiple debt problems and we will liaise closely with the relevant Housing Benefits Section to aid prompt benefit claims processing, minimise overpayment of benefit and ensure relevant staff training in all aspects of arrears recovery.

4.2.2 To comply with these policies Erimus Housing will:

- Deal with arrears problems as early as possible to prevent the arrears becoming unmanageable and ensure payments are forthcoming;
- Base procedures upon the number of weekly payments missed rather than the amount owing;
- Provide practical advice and assistance to tenants facing difficulties with their payments;
- Work with tenants to ensure that they maximise their income through benefit entitlement, and in ways that includes rent payments as part of the tenants weekly budget to reduce and clear rent arrears;

- Support schemes for vulnerable and younger tenants that develop the skills necessary to manage household budgets and thereby sustain and protect the tenancy;
- Develop and sustain partnerships to assist tenants with multiple debt problems through partnering agreements with the Citizens Advice Bureau, Tandem (Financial Inclusion Team), and by referring tenants for independent debt counselling and money advice.

#### 4.3 Current Arrears

- 4.3.1 Control of the level of arrears is an important indicator of how well Erimus Housing manages its stock and the collection of rental income. As a result, the debt recovery process will strive to use the most effective and efficient methods and processes.
- 4.3.2 This policy has been designed to enable recovery, not only within the context of the legal framework of Landlord and Tenant law, but also to take account of the economic and social issues faced by many tenants.
- 4.3.3 Erimus Housing will therefore aim to engage with customers at the earliest opportunity, and adopt a sympathetic but firm approach to tenants in rent arrears. We will provide practical advice and assistance to tenants facing difficulties with their rent payments, and only consider repossession of a home as a last resort, where all other efforts to resolve the situation have failed.
- 4.3.4 Erimus Housing will develop clear procedures for recovery of rents and service charges and ensure that welfare benefit and money management advice is available to all tenants at the earliest possible stage to prevent the arrears becoming unmanageable and ensure payments are forthcoming.

#### 4.4 Former Tenant Arrears

- 4.4.1 The Debt Assistant will manage all debt owed to Erimus Housing by the former tenant and the extent of recovery action for former tenant arrears will be appropriate to the amount owed, and the likelihood of successful debt recovery
- 4.4.2 Tracing agencies will be employed to establish the whereabouts of debtors if Erimus Housing is unable to trace via our internal systems and appropriate legal actions will be considered to collect amounts owed.
- 4.4.3 Former Tenant Arrears will be written off where recovery is uneconomical and the tenant whereabouts remain unknown for over a year. If at any time the whereabouts of the debtor becomes known the debt will be reinstated and recovery recommenced.

#### 4.5 Commercial Income

- 4.5.1 Erimus Housing has a number of commercial properties for rent. These properties are rented under leases and the tenancies are managed on a commercial basis.
- 4.5.2 To help tenants comply with this policy and prevent arrears Erimus Housing will:

- Give clear information about tenant responsibilities and commercial rent recovery;
- Monitor rent accounts and seek to minimise delay or non-payment of commercial rent or other payments due under leases;
- Inform commercial tenants that non-payment of rent is unacceptable and that recovery action will be taken if rent obligations are not met;
- Carry out stringent vetting of prospective tenants, including references, a credit check/bankruptcy check (subject to legal advice) and for existing customers, a check of their other accounts;
- Where appropriate seek confirmation for new business start-ups that they have taken business advice, or in the case of existing businesses show how able to demonstrate a proven track record;
- Seek to recover all current and former commercial tenant arrears through agreed arrangements, or in default, any options available to us;
- Where possible seek to charge interest from tenants under lease terms or The Late Payment of Commercial Debts (Interest) Act 1998.

#### 4.6 Leaseholders

4.6.1 Erimus Housing leaseholders are charged for the costs incurred by Erimus Housing in repairing, maintaining services and structures that are shared in common with other occupiers in the building and this policy aims to prevent arrears and recover all relevant costs under the terms of the lease agreement.

4.6.2 To help leaseholders comply with this policy and prevent arrears Erimus Housing will:

- Regularly monitor leaseholder service charge accounts;
- Establish all new lease agreements to allow for the collection of service charges in advance, and set up appropriate sinking funds to cover the cost of the future major works;
- Give clear information, prior to the leasehold purchase, about leaseholder responsibilities by inviting prospective leaseholders for individual discussion;
- Monitor leasehold accounts and ensure payment of leasehold arrears or other payments due under leases;
- Seek to recover all current and former leaseholder arrears through agreed arrangements, or in default, any options available to us;
- Within the first five years only those service charges detailed on the legal offer notice (under Section 125 of the Housing Act 1996) will be levied;
- In accordance with the Commonhold and Leasehold Reform Act 2002, service charges will be raised within 18 months of the charge becoming due;
- We will issue service charge statements and demands within six months of the end of the year of the services provided: or provide written notice, by registered post, of any new timescale where required.

#### 4.7 Rechargeable Repairs

4.7.1 Erimus Housing is committed to providing housing maintained to high standards. The Rechargeable Repair Policy contributes to that commitment by setting out the circumstances for charging when damage to property requires repair and when repairs are the responsibility of the tenant.

4.7.2 Tenants will be recharged the full replacement cost of works, except where a different item is fitted as replacement. The replacement cost of the original item only will be charged.

4.7.3 A schedule of rates is available as a guide to rechargeable costs. The list is not exhaustive and some cases will require pre-inspection to assess and correctly cost the damage. VAT is charged for all repairs to occupied and vacant properties.

4.7.4 Where rechargeable repair works are applicable, Erimus Housing will:

- Provide clear information on the circumstances for recharging;
- Set out the process for recharging;
- Provide the basis for recharge calculations;
- Explain the sanctions available to Erimus Housing against tenants with recharge debts;
- Ensure stock is maintained to a minimum of decent standards, is safe to occupy and is not a nuisance.

#### 4.8 Sundry Debtors

4.8.1 The following principles are in place to recover sundry debts owed to Erimus Housing:

- Follow a methodical approach in the recovery of debts from the decision to charge for a service and ending with payment or the decision to write off bad debts;
- Provide standard terms and conditions for payment of sundry debts and set these out on the invoices raised to customers;
- Raise invoices promptly following the supply of goods or services, making arrangements to pay, recording payments made and producing reminders to pay;
- Only raise a sundry debtor account when other more immediate methods of recovery are impractical;
- Set a minimum amount for raising an invoice of £10 with sums below this uneconomic to pursue in terms of recovery action and any chargeable services provided below £10 paid for in advance;
- Issue a series of reminder letters at fixed periods where the invoice has not been settled in full or agreed arrangements for payment are not complied with;
- Provide contact with customers in ways suitable to the customer by phone, e-mail, text message or personal visit where appropriate;
- Take legal action to reclaim debts where the issue of invoices, reminder letters and contact with the customer proves unsuccessful including warrant of execution, attachment of earnings, third party debt order, receiver, charging order and winding up or bankruptcy;
- Only recommend court action as a means of debt recovery where there is sufficient supporting evidence and it is economic to do so;
- Use tracing agencies as a means of tracing sundry debtor whereabouts;
- As a last resort to recommend the debt for write off in accordance with Erimus Housing financial regulations.

## 4.9 Debt Write Off

4.9.1 Any decision to carry out bad debt write off will be taken in accordance with Erimus Housing Financial Regulations.

4.9.2 Erimus Housing routinely assesses debts for the likelihood of payment and considers the individual circumstances of each debt within a consistent framework for decision making.

4.9.3 Erimus Housing recognises that it is good practice to ensure the effective management of bad debts and will write off debts where there is no realistic possibility of recovery or where debts become uneconomical to pursue.

## 4.10 Withdrawing certain rights granted for tenants in rent arrears

4.10.1 Erimus will consider withdrawing the following rights, where tenants do not have a clear rent account. Cases where tenants are in arrears will be assessed on the individual merits and circumstances of each case, in order to avoid hardship or unfair disadvantage:

- Tenants in arrears will be required to continue to make payments off arrears on any rent-free weeks;
- Erimus will consider deducting amounts in lieu of payment from tenants entitled to redecoration, disturbance allowance or home loss payment or other compensation payment;
- Transfer to another property owned by Erimus Housing may be deferred until arrears are cleared;
- Seek to obtain agreement from other social housing providers not to offer rehousing to a tenant with arrears on a reciprocal basis;
- Not normally consider former tenants of Erimus Housing for rehousing until any outstanding debts have been cleared or satisfactory repayment commenced;
- Make exception in specific individual circumstances to homeless households who have been awarded priority by Homechoice, or high priority medical or special needs applicants.

## 4.10.2 Tolerated Trespasser

4.10.3 Tolerated Trespasser is the term for a person who was an assured or secure tenant but has breached the terms of a Suspended Possession Order and therefore is no longer a secure or assured tenant.

4.10.4 A Tolerated Trespasser is no longer a secure or assured tenant. Therefore, they no longer have the rights of a secure or assured tenant. These include:

- Preserved Right to Buy;
- Right to Acquire;
- Right to Exchange;
- Right to Assign the Tenancy;
- Right to Succession;
- Right to Repair;

- Right to Claim for Disrepair.

## **5 EQUALITY AND DIVERSITY**

- 5.1 Erimus Housing's approach to debt recovery aims to be all inclusive, (i.e. does not discriminate on the basis of sexuality, gender, ethnicity, race, religion and belief, age, disability, marital status or trade union activity).
- 5.2 This policy also complements the Achieving Equality and Valuing Diversity Policy (service delivery), which should be referred to for specific guidelines on ensuring equality for all when following the Debt Recovery policy and associated procedures.
- 5.3 This policy will undergo a periodic review, and an Equality Needs Impact assessment will be conducted as part of this review process to ensure the policy remains fit for purpose, non discriminatory, and that any changes in legislation or statute are considered and incorporated.

## **6. CUSTOMER INVOLVEMENT AND CONSULTATION**

- 6.1 Erimus Housing will consult the Residents' Panel, Area Housing Forums, Income Management Focus Group, Residents' Associations, and other recognised residents groups, local voluntary and statutory agencies on a regular basis in order to continually develop good practice in this policy area.
- 6.2 The policy has been developed in conjunction with staff and customers, and incorporates areas of Best Practice issued by the Housing Corporation, National Housing Federation and the Chartered Institute of Housing.

## **7 MONITORING AND REVIEW**

### **7.1 Monitoring**

- 7.1.1 Erimus Housing will monitor its performance in relation to this Policy, and its progress, to ensure income is maximised and debts are recovered in line with the provisions within this policy. Monitoring activities will include:
- The development of relevant performance indicators, taking account of the Best Value performance indicator framework;
  - Measuring performance against operational service plans;
  - The regular monitoring of performance objectives, targets and desired outcomes to ensure that all performance targets are met;
  - Quarterly reporting to Board and Committee;
  - An annual review of performance against the specified objectives, targets and desired outcomes;
  - This policy will be monitored by the Rent and Income Manager and subject to annual reviews in order to reflect emerging best practice and regulatory guidance.

## 7.2 Review

7.2.1 Erimus Housing will undertake a review of this policy whenever there are any relevant changes to legislation, case law or good practice that would impact on this policy.

7.2.2 In the absence of such a trigger for a review, the policy will be reviewed bi-annually intervals or other such period as the Board may from time to time determine. The Board of Erimus Housing will be responsible for ensuring that a review of this policy is carried out.

7.2.3 Procedures relating to this policy will also be periodically reviewed, taking into account any operational issues that arise.

7.2.4 Tenant representative groups will be involved and consulted in any review of the policy in line with Erimus Housing's policy on tenant participation and consultation.

## 8. RESPONSIBILITY

8.1 It is the responsibility of the Group Director of Operations to ensure that:

- All staff are aware of Erimus Housing's policies;
- All staff are trained on the policies;
- Monitoring records are collected in accordance with Erimus Housing's policies and procedures;
- Customers are adequately informed of the policies;
- Appropriate action is taken against employees whose actions are inconsistent with this policy.