

# Former tenant arrears: Good practice principles

August 2020



# Shelter Cymru

**Shelter Cymru is the people and homes charity in Wales.**

## **Our vision**

Everyone in Wales should have a decent and affordable home: it is the foundation for the health and well-being of people and communities.

## **Our mission**

Shelter Cymru's mission is to improve people's lives through our advice and support services and through training, education and information work. Through our policy, research, campaigning and lobbying, we will help overcome the barriers that stand in the way of people in Wales having a decent affordable home.

## **Our values**

Be independent and not compromised in any aspect of our work with people in housing need.

Work as equals with people in housing need, respect their needs, and help them to take control of their own lives.

Constructively challenge to ensure people are properly assisted and to improve good practice.

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# Introduction

This paper describes good practice in helping people who have got former tenant arrears (FTA) back into social housing. It is based on independent research<sup>1</sup> by Housing Quality Network (HQN) as well as existing good practice examples from Shelter Cymru casework.

## Scale of the issue

The HQN research found that in a snapshot survey of social landlords across Wales in 2018, 993 applicants were excluded from social housing in six local authorities. Most landlords and authorities had no record of numbers and so, if the figure is extrapolated, it could mean that over 3,500 households were excluded across Wales.

## The real life impact of former tenant arrears' policies

The payment of rent is an essential part of the agreement between landlords and tenants. However, poverty, challenging circumstances and low financial skills are some of the factors that lead tenants to accrue arrears. Shelter Cymru casework demonstrates the significant impact that inflexible policies on FTA have on people's wellbeing and access to social housing. This raises the issue of how FTA can be addressed so that people can still move quickly into a secure social home rather than remain stuck in temporary accommodation or potentially unaffordable private rented sector (PRS) housing.

### Families' stories from Shelter Cymru casework

A couple with five children aged under 14 were living in a two bedroom housing association home. The mother had significant mental health issues. Their benefits had reached the benefit cap, leaving them with a Housing Benefit shortfall of £41.20pw. They also had rent arrears which the housing association required them to repay at £8.80pw. Due to their overcrowded conditions they applied to transfer to a larger home, but were not able to be considered until they had paid several months rent shortfall and debt. Also, their arrears reduced their priority for a transfer, making it even more difficult for them to move.

A 26 year old woman and her two children were living in private rented accommodation. She received a Section 21 notice from her landlady to leave as she was selling the property. She applied to the council for housing, but her application was suspended because of a £2,000 debt from a previous joint tenancy of a council property when she was 19. Her former partner was abusive and very controlling, not allowing her to go out of the flat for long periods. She didn't know that the rent was not being paid. The council said that the former arrears need to be repaid or long term consecutive repayments made before she and her children could be considered for social housing. The council has confirmed that if the debt is put in a Debt Relief Order then the suspension from the waiting list will be lifted. This will have a long term impact on her credit score.

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1 [https://chcymru.org.uk/uploads/events\\_attachments/Assessing\\_affordability\\_and\\_barriers\\_to\\_accessing\\_social\\_housing\\_in\\_Wales.pdf](https://chcymru.org.uk/uploads/events_attachments/Assessing_affordability_and_barriers_to_accessing_social_housing_in_Wales.pdf)

## Assessing ‘tenancy readiness’

We would advocate thinking about ‘tenancy readiness’ within the context of the Welsh Government’s new homelessness strategy<sup>2</sup> and in particular the statements around Housing First and rapid rehousing.

Traditionally former arrears policies have been concerned with assessing evidence of ‘behaviour change’ over a period of time before granting someone a new tenancy. However, the Housing First/rapid rehousing ethos moves us away from a ‘tenancy ready’ mind-set and towards a support-based approach – based on the principle that anyone can sustain a tenancy if they have the right support in place.

With this ethos in mind, a practical way of addressing FTA is to grant people with FTA a new tenancy alongside an affordable repayment plan to clear arrears over time, while also providing support with budgeting and any other identified support needs. It is much more achievable for people to demonstrate behaviour change while they are in a new tenancy than while they are homeless. The involvement of an independent specialist debt and money advisor is important to ensure that the repayment plan is genuinely affordable.

### Good practice policy example

In 2020 a Housing First housing management charter in Wales was agreed by housing associations, stock-holding local authorities, Community Housing Cymru and Cymorth Cymru. It contains the following approach to rent arrears:

Historical arrears – We will consider writing off historical arrears entirely. Where this is not possible, we will encourage the use of individualised budgets and work with the relevant local authority to source funds to reduce or clear any historical arrears. Where historical arrears cannot be cleared in full; a reasonable, affordable and achievable payment plan will be created for the outstanding balance. We will not prevent allocations as a result of outstanding arrears.

## Lump sum payments

An alternative approach is to require arrears to be below a certain level – necessitating a lump sum payment either from the individual or from the local authority homelessness team. This approach is more concerned with arrears recovery than with assessing behaviour change. However, Shelter Cymru casework includes examples whereby people have paid lump sums to social landlords by putting themselves into debt at extortionate interest rates. In the long run this unaffordable debt could end up threatening their tenancy.

Furthermore, local authority homelessness teams have only limited funds for homelessness prevention – social landlords should not be making undue demands on that limited resource.

We therefore don’t recommend blanket policies that require arrears to be below a certain level.

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2 <https://gov.wales/sites/default/files/publications/2019-10/homelessness-strategy.pdf>

# Making the debt manageable

The HQN report<sup>3</sup> included – at section 3.21 – a number of examples of good practice from outside Wales, including:

- Offering full and final settlements
- Matching payments pound for pound
- Setting up hardship funds

The report pointed out that the recovery rate for FTA is rarely more than 25-30 per cent for most landlords. With this in mind, by agreeing to meet tenants partway landlords may be more likely to recover arrears than by insisting on the full sum.

A further important consideration is how long ago the arrears were accrued. The report recommended that when arrears are so old that they are statute-barred (and therefore can't be reclaimed via the courts) they should not be used as a reason for exclusion.

The older the arrears are, the less useful they are in assessing 'behaviour change' as it is not accurate to assess risk against someone's behaviour from many years in the past.

## Good practice example

A man was struggling to afford his council home and was accruing arrears. The council rehoused him into a more affordable one-bed property. This was good practice, as allocations policies usually prohibit transfers when people have arrears.

However, the man came to Shelter Cymru for help because he was being put under considerable pressure to repay the FTA. We liaised with the council who agreed to set up a sub-account and place the arrears into there. They agreed to let the arrears sit in the sub-account for six months as long as the man was keeping up with his current rent payments. After six months, the man's situation would be reviewed and provided he could afford it, an affordable repayment plan would be put in place. This arrangement meant that the FTA did not trigger the council's arrears procedure.

# A person-centred approach

## Stories from Shelter Cymru casework

A couple and their three children, all aged under seven, were living in social housing in Wales. They had some rent arrears. The woman experienced hate crime from neighbours and domestic violence from her partner, and fled to London with her children. She accrued further arrears on the property. Her partner found her and brought the children back to Wales. She returned to try to obtain custody of the children and presented as homeless to her council, who placed her in temporary accommodation. She was not able to be considered for social housing until she paid at least 25% (£500) of the arrears, and maintained an arrears repayment plan for 13 consecutive weeks.

<sup>3</sup> [https://chcymru.org.uk/uploads/events\\_attachments/Assessing\\_affordability\\_and\\_barriers\\_to\\_accessing\\_social\\_housing\\_in\\_Wales.pdf](https://chcymru.org.uk/uploads/events_attachments/Assessing_affordability_and_barriers_to_accessing_social_housing_in_Wales.pdf)

Many social landlords operate a pragmatic approach to FTA that may be more flexible than their official written policy suggests. For example, although a policy may require a given number of consecutive weekly payments before someone can be allocated a new home, this policy might be waived for people who are homeless or otherwise in a difficult position to meet the requirements of the policy.

If someone is in temporary accommodation, for example, they are likely to be under considerable stress which may affect their ability to manage their finances. Furthermore there is an urgent need to help them move into a permanent home so that the temporary accommodation can be freed up for another homeless household. Landlords should consider on a case-by-case basis how realistic are the requirements of the written policy, given the person's current circumstances.

A further consideration is what was happening in the person's life when the arrears were originally accrued: were they a vulnerable young person? Had they been in the care system? Were they experiencing domestic/financial abuse? Is the debt due to recharges rather than arrears? There is not the same level of transparency around recharges as there is for arrears, and tenants may have a good reason to dispute the level of recharge.

## Arrears from private rented accommodation

### A person's story from Shelter Cymru casework

A 27 year old woman was paying £595 per month for her private rented flat. Due to mental ill health she lost her job and secured a lower paid role. She unsuccessfully asked her landlord to reduce the rent. Her mental health declined further and a year later she had to leave that job. She had built up rent arrears of over £2,500 and her landlord gave her a Section 21 notice. She contacted the council's homelessness department to register on the common housing register for social housing. Due to her rent arrears she was excluded from the register. Her request to apply for housing would be reconsidered if she made regular repayments for 12 weeks, but due to the size of the arrears there was no guarantee that she would be registered at that stage. Her situation was further complicated by the need to obtain a reference from her landlord to apply for social housing.

A small number of allocations policies in Wales exclude people from social housing if they have FTA or other housing debts from PRS housing. We don't think it is reasonable to take people's ability to pay market rents as an indicator of ability to pay social rents.

There may be mitigating circumstances to former PRS arrears that won't be obvious if the tenant was evicted on a 'no-fault' ground. For example, the landlord might have increased the rent so there was a large top-up. There might have been a dispute over the level of arrears, with the landlord claiming more rent was due than was actually the case. Potentially the landlord may have been negligent in meeting their legal responsibilities, for example by being unregistered or failing to address disrepair.

Excluding someone with old PRS arrears or housing debt from social housing means that the only housing option open to them will probably be within the PRS. In order to give people a good chance of sustaining a tenancy and avoid homelessness, a social housing offer is likely to be a critical intervention.

### Good practice example

A couple with two children aged under eight, and expecting their third child, were living in a privately rented three bedroom house. Their landlord gave them a Section 21 notice to leave, and so they made a homelessness application to their council. They tried to apply for social housing through the common housing register but were suspended from the register due to a housing association debt from a tenancy that ended four years ago. The £700 debt was for the cost of clearing belongings from the house, which were mainly a garden shed and a new carpet – both of which the couple thought would be useful for the incoming tenants. In order to be considered for social housing they needed to either clear the arrears or make 13 repayments and reduce the debt by at least 25%. With support from Shelter Cymru, the housing association wrote off 50% of the debt and an application was made to a charity to help with the remaining 50%. This would enable the family's suspension to be lifted in order to be considered for social housing.

## Regularly reviewing policy and practice

Some landlords may not review their FTA policies on a regular basis. We would recommend periodically revisiting the policy, and assessing actual practice alongside it, to check whether the policy is still in sync both with organisational values and with Welsh policy as a whole. As the Welsh Government further embeds a philosophy of early homelessness prevention and rapid rehousing across Wales, it is increasingly important that individual organisational policies are in line with this aim.

**For more information or to discuss this paper further, please contact Jennie Bibbings, Campaigns Manager on [jennieb@sheltercymru.org.uk](mailto:jennieb@sheltercymru.org.uk).**