

**Clydebank Housing Association**

**To: Management Committee**  
**From: Head of Housing Services**  
**Date: 14 November 2019**  
**Subject: Legal issues report**

**Please note that email polls were carried out on this report. This report is therefore for information only.**

The following cases are due to call at court or require Committee decision for recovery of possession action or similar. All cases are reported anonymously.

<b><u>Case 1 – court action for rent arrears</u></b>	
Tenancy start date:	15/05/2017
Court Date:	16/10/2019
Outcome of court hearing:	Decree granted for recovery of the tenancy, debt owed and legal expenses
Current Arrears £	£1527.89
Monthly Rent Charge £	£296.15
Benefit entitlement/details	None in place
Agreement in place/details	None in place
<u>Case detail:</u>  Since calling to court and Decree being awarded, the tenant has not made any payments to rent account since court calling and arrears have increased.	
<u>Recommendation:</u>  It is recommended that we action Decree granted at court on 16/10/2019 and recover the tenancy at the earliest date possible. We should also instruct a wage arrestment on the tenant's earnings to recover the debt.  However, should the tenant make a substantial payment to reduce the arrears, we will put a payment agreement in place to cover the ongoing rent and clear the rent arrears within the period of the Decree. Should the tenant default on a payment agreement, we can still action the Decree and recover the property.	

**Case 2 – court action for rent arrears**

Tenancy start date:	17/10/2016
Court Date:	30/10/2019
Last Calling Date(s):	First calling date
Notice of Proceedings served:	25/06/2019
Legal action instructed:	30/08/2019
Current Rent Arrears £:	£1795.74
Monthly Rent Charge £:	£303.33
Agreement in place/details:	None in place
Benefit entitlement/details:	None in payment

**Case detail:**

The tenancy has been in arrears since 17 October 2016. The tenant was in receipt of housing benefit which stopped on 30 July 2019. Since then the tenant has failed to respond to our attempts to contact them to put a payment agreement in place and to bring us up to date with their current circumstances. They did send us an email in September 2019 requesting an appointment with us, however they have failed to attend two appointments and are no longer engaging with us.

The tenant has also failed to respond to the Council's Homeless Prevention Team.

**Recommendation:**

It is recommended that we seek decree for the recovery of the debt owed and all associated legal expenses.

However, should the tenant contact us, reduce the arrears and put a payment agreement in place, we will then ask that the case be continued for two months to allow us to monitor any payments.

**Case 3 – court action for rent arrears**

Tenancy start date:	23/06/2011
Court Date:	11/12/2019
Last Calling Date(s):	First calling date
Notice of Proceedings served:	28/06/2019
Legal action instructed:	16/10/2019
Current Rent Arrears £:	£1078.44
Monthly Rent Charge £:	£324.38
Agreement in place/details:	£200.00 11/11/2019, £200.00 15/11/2019 followed by £400.00 on the 29 <sup>th</sup> of each month from 29/11/2019.
Benefit entitlement/details:	None in payment

**Case detail:**

The rent account has been in arrears since 25 June 2018 and the tenant has a history of sporadic payments. The monthly rent charge has not been covered since September 2019. A payment agreement was put in place on 11 November 2019, as detailed above. The tenant has already defaulted on the agreement and has failed to make the first payment of £200.00 which was due on 11 November 2019. We will continue to try to contact the tenant.

**Recommendation:**

It is recommended that we seek decree for the recovery of the debt owed and all associated legal expenses.

However, should the tenant make payment to bring the agreement up to date, we will then ask that the case be continued for two months to allow us to monitor any payments.

**Case 4 – court action for rent arrears**

Tenancy start date:	17/10/2016
Court Date:	11/12/2019
Last Calling Date(s):	30/10/2019
Reason for continuation:	To allow the tenant the opportunity to engage with CHA and progress with their application for benefits
Current Rent Arrears £:	£2099.07
Monthly Rent Charge £:	£303.33
Agreement in place/details:	None in place
Benefit entitlement/details:	None in payment

**Case detail:**

Case last called to court on 30 October 2019, when the tenant appeared in person. The tenant informed the Sheriff that they were unemployed and were in the process of applying for Universal Credit. Given this the Sheriff continued the case for a six week period to allow the tenant to engage with the Association and progress with the application for benefits.

Since the last court date, we have visited, emailed and lettered the tenant but there has been no contact or payments made. We will continue to attempt to contact the tenant.

**Recommendation:**

It is recommended that we seek decree for the recovery of the debt owed and all associated legal expenses.

However, should the tenant contact us, reduce the arrears and put a payment agreement in place, we will then ask that the case be continued for two months to allow us to monitor any payments.

**Case 5 – court action for rent arrears**

Tenancy start date:	19/07/2017
Court Date:	11/12/2019
Last Calling Date(s):	04/09/2019, 10/07/2019
Outcome of Last Calling Date:	Case was sisted for payment monitoring. Agreement in place and tenant was making payments
Legal action instructed:	Sisted court action recalled on 25/10/2019
Current Rent Arrears £:	£2054.83
Monthly Rent Charge £:	£345.37
Agreement in place/details:	None in place
Benefit entitlement/details:	None in payment

**Case detail:**

Since the case was sisted for payment monitoring on 4 September 2019, the tenant has not made any payments to the rent account.

Despite our attempts to contact the tenant, they have failed to address the rent arrears. The tenant has made two appointments to call to the office this week, one was cancelled and the tenant failed to contact us or attend the second.

We will continue to attempt to contact the tenant.

.

**Recommendation:**

It is recommended that we seek decree for the recovery of the debt owed and all associated legal expenses.

However, should the tenant contact us, reduce the arrears and put a payment agreement in place, we will then ask that the case be continued for two months to allow us to monitor any payments.

**Case 6 – court action for rent arrears**

Tenancy start date:	15/05/2017
Last Calling Date(s):	30/10/2019
Outcome of court hearing:	Decree was granted
Current Rent Arrears £:	£2224.04
Monthly Rent Charge £:	£296.15
Agreement in place/details:	None in place
Benefit entitlement/details:	None in payment

**Case detail:**

Decree was granted at court on 30 October 2019 and recovery of the tenancy has been arranged for 26 November 2019. The tenant has approached the Association and proposed payments of £800.00 on 19 November 2019 followed by £640.00 each month for the period of the Decree. This payment proposal will cover the monthly rent charge, clear the rent arrears and legal expenses before the Decree is invalid.

**Recommendation:**

It is recommended that we accept the tenant's payment proposal. However should the tenant not make payment in full or on time, we can immediately action the Decree and recover the tenancy.