

# Landlord guide to rent arrears

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As the UK's leading representative body for landlords, it is important that we confront the issues that are important to our members.

Rent arrears are a real concern for many landlords across the UK. For most landlords, loss of rent has a great impact on their ability to pay their mortgage and rent arrears that are left to spiral out of control can have devastating effects on their business.

As part of the NLA's Effective Letting campaign, this guide aims to highlight the importance of taking a best practice approach to your letting business to help ensure happy, healthy tenancies for everyone involved. Adopting best practice at every stage of the letting cycle will reduce the likelihood of issues, such as rent arrears, arising.

## **1. Background to arrears, who they effect and their severity**

Debt is a reality for every type of business, but is a particular problem for landlords letting property in the private-rented sector. Unlike almost any other service provider, landlords are unable to terminate a contract with their client if payment is not received. On the contrary, irrespective of whether the agreed payments are being made, landlords have a legal obligation to ensure that they honour their side of the arrangement.

Only a court may end a tenancy agreement on the basis of non-payment and even then, vacant possession is only guaranteed following two months of accrued debt and the grant of a warrant for possession.

Of course, providing housing is very different from other types of business. Landlords do not simply provide a product or service to their clients, they provide homes and it is only right that protections should exist to prevent unscrupulous individuals and businesses abusing their position.

However, this necessary restriction on a landlord's ability to cease doing business with non-paying tenants immediately makes it all the more important that housing providers understand how to reduce the risk of arrears, deal with them professionally and mitigate the impact they have on their businesses.

## **2. Prevention is better than cure: How to avoid rent arrears**

It is easy to assume that certain types of property or tenant are more likely to lead to rent arrears. However, in reality housing debt affects all walks of life and individual circumstances. This universality can make it very difficult to predict and subsequently avoid, but there are a number of common-sense steps that can reduce the risk of encountering arrears or at least make it easier to spot the danger signs early on.

The best way to mitigate the risk of rent arrears in the future is to factor the potential cost into your planning as early as possible. A good rule of thumb is to plan - whenever possible - as much of your lettings business on the basis that you may only receive rent 10 out of 12 months. By planning your investment and predictable costs against this reduced income you will allow sufficient margin for the majority of unexpected costs or moderate non-payment. Frequently landlords leave little margin for error and quickly find that missed rental payments lead to an inability to cover their costs.

However, preparing yourself for lost income is by no means a solution to the problem of unpaid rent. It is important to take appropriate precautions before granting a new tenancy. Although it is impossible to completely predict future arrears, it is possible to reduce the risk slightly.

- Vet prospective tenants thoroughly

There are a multitude of different checks, which you might choose to use to find out about a prospective tenant. The most common of these are; proof of income (such as payslips or a certified bank statement), an employer's reference confirming their employment status and a previous landlord's reference.

These checks concentrate largely on ensuring that a tenant will have sufficient income to pay the rent and that they do not have a recent track record of non-payment. However, it can also be useful to conduct a credit check on prospective tenants to identify any bad debts, which may indicate a higher risk of default in the future.

Many landlords find it easier, and more efficient to use a professional tenant checking service such as NLA Tenant Check to carry out comprehensive pre-tenancy checks.

NLA Tenant Check offers two services, a basic tenant check or more in-depth research on an individual, including reference checks.

- Consider insurance cover

Assuming that you have taken referencing as far as you can, in so far as you are reasonably confident that your prospective tenant represents a reasonable risk, you may also wish to consider insurance options. There are a wide variety of landlord insurance products on the market, which can reduce your financial exposure to non-payment of rent. However, these products are not all created equal and there is an equally wide variation of coverage and service levels making it essential that you understand exactly what you need and what cover is most appropriate.

These insurance products usually require a certain level of tenant referencing which can restrict the type of tenant you are able to accept. It is also important to note the length of cover available as most will only cover a specified time range and offer no protection if arrears occur later on.

NLA Rent Protect insures you if your tenant fails to pay the rent. It covers you for up to £2,500 per month in unpaid rental income and it covers legal costs to help you in the recovery of unpaid rent.

- Consider a guarantor

Another option may be to consider insisting upon a guarantor; i.e. a third party who agrees to cover any non-payment on behalf of your tenant. This is common practice in relation to student lets where the tenant rarely has a defined income or track record of renting, but can be appropriate for other tenancies if some doubt exists about the tenant's ability to meet their obligations.

It is best practice to ensure that a guarantor is UK based and a homeowner to provide the best chance of enforcing the guarantor agreement. Join as an NLA Associate Landlord to download a comprehensive guarantor agreement from the NLA website. Visit: [www.landlords.org.uk/associate](http://www.landlords.org.uk/associate)

It is important to ensure that potential guarantors have sufficient opportunity to review this agreement and are completely aware of their responsibilities. It is also essential to ensure that you are sufficiently covered at the end of the initial fixed term, as some guarantor agreements can be ambiguous about continued liability.

- Trust your instincts

Although it is not recommended that you rely on personal impressions and 'gut feelings' alone, they can play an important role in deciding whether to grant a tenancy. If something doesn't seem right, or perhaps appears too good to be true, it can be an indication that you should dig a little deeper. In most cases it will turn out to be nothing, but it is worth remembering that serial 'bad tenants' and even criminals who use rental property for illegal purposes often pose as very convincing 'good risks' or front others to agree tenancies before moving in themselves.

You should never reject someone just based on a feeling, but it may be worth considering professional checks or appropriate insurance if you are unsure about an applicant. Their response to greater scrutiny may also help to confirm or dismiss your suspicions.

### **3. Spotting problems early: what to look out for and how to react**

Your tenancy agreement should stipulate when and how you expect to receive regular rent. If weekly payment is stipulated, don't forget to provide a rent book; without this, rent may not be legally due (this does not apply for monthly tenancies). Join as an NLA Associate Landlord to download best practice tenancy agreement from the NLA website. Visit: [www.landlords.org.uk/associate](http://www.landlords.org.uk/associate)

Monitor receipt carefully, if the rent has not or does not appear to have been paid, there is no reason to wait before making a polite inquiry. There may have been a legitimate banking or admin issue, which is easily resolved or your tenant may have made an honest mistake. If this is the case, simply work with them to ensure prompt payment and make sure they understand the importance of paying on time.

If the problem is more serious you should arrange to meet or speak with the tenant as soon as practical, to discuss their circumstances. It is important to remain calm and professional at all times and keep clear records of all communications.

Depending on the reason for the late or non-payment, it may be possible or advisable to negotiate a repayment plan, which brings the arrears back under control. If the problem looks likely to become long-term you may wish to discuss whether your tenant wishes to continue with the tenancy, if they are able to afford the rent payments and if they have considered their eligibility for support in the form of Local Housing Allowance, soon to be replaced by Universal Credit.

### **4. Minimising the impact of arrears**

Depending on your particular circumstances, rent arrears can quickly erode margins and erase any prospect of making a profit. It is therefore crucial to react quickly and effectively to suspected arrears. Too often landlords wait for weeks or months before taking any action, by which time a minor problem has escalated to the point that the tenancy and possibly the entire letting business is no longer tenable.

As soon as a rent payment is late, speak with your tenant. Bear in mind that if you have more than one tenant you should ascertain whether they are jointly and severally liable for the rent; this is usually the case if they are listed on one tenancy agreement. If they are able to make the payments then discuss appropriate payment plans. If not, discuss their intentions.

If your tenant's circumstances have changed, they may wish to end the tenancy early. This can be a good option if all parties agree, as it ends liability for rent payments and allows the landlord to move on and find new tenants. It is common practice in circumstances such as these to agree to end the tenancy as soon as replacement tenants have been found to minimise the financial impact to your business.

However, it is essential to remember that a landlord cannot simply end a tenancy due to rent arrears without a court order, unless the tenant wishes to surrender the tenancy. Landlords must be very careful not to pressurise tenants into agreeing to end a tenancy, as this could be perceived as harassment and or illegal eviction, both of which carry criminal sanctions.

It is important to consider your options carefully when deciding on which approach is most appropriate for the particular tenancy's circumstances and for your long term objectives. It is possible to mitigate the damage done by debt, if you choose the right strategy.

## 5. Mitigation strategies

Every tenancy is different, and the circumstances of your tenants' arrears will determine what long-term approach is possible and likely to lead to a positive outcome. However, there are few standard steps that you and your tenant can take together to mitigate the impact of rent arrears on your business and of bad debt on their finances.

- Talk

A strong working relationship is important at every stage of the landlord tenant relationship, but is absolutely essential if problems are beginning to surface.

It is likely that your tenant will be under a considerable amount of stress at this time, caused by whatever pressures have resulted in their inability to pay the rent. It is important to balance the need to convey the importance of settling the debt with a degree of practical compassion for their circumstances.

Try to understand what has changed and what factors are contributing to the arrears, if it is likely that the problems will be short-lived, or if consideration needs to be given to a long-term plan of action.

- Help your tenant to assess their options

Many cases of arrears come about because of a loss of income. If this is the case, ask if your tenant has made inquiries about housing support.

Depending on their circumstances, they may already be in receipt of some form of financial support from the state, or this may be their first experience with making an application. Either way, it is worth encouraging them to check which payments and credits they may be eligible to receive.

The Government has made the process relatively easy and provides an online tool. A tenant can go to: [www.gov.uk/benefits-adviser](http://www.gov.uk/benefits-adviser) and follow the onscreen instructions to assess their eligibility.

Please bear in mind that a user will need to provide certain details, including accurate information about their:

- ✓ Savings
- ✓ Earnings (eg. from payslips)
- ✓ Existing benefits and pensions
- ✓ Outgoings (eg. rent, mortgage, childcare payments)
- ✓ Local housing allowance limit (if the tenant rents from a private landlord)

If they prefer to look elsewhere, initially there are a number of other advice services available which you could suggest, including:

- ✓ Citizens Advice Bureau [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk). The Citizen's Advice Bureau offers advice online, over the telephone and in person at local offices.
- ✓ The Money Advice Service, offers a financial health check tool online at [www.moneyadviceservice.org.uk/en/tools/health-check](http://www.moneyadviceservice.org.uk/en/tools/health-check)
- ✓ Step Change, a debt advice charity, offers a benefits checker similar to the Government's and advice about how to make a claim online at [www.stepchange.entitledto.co.uk](http://www.stepchange.entitledto.co.uk)

- Identify short-term fixes

If the problem is likely to be short-term, e.g. specific issues reducing your tenant's ability to pay one or two months' rent, discuss repayment plans. If you have previously enjoyed a good relationship with your tenant and both parties are keen to help the tenancy continue, it may be possible to agree a temporary adjustment to the rent and/or a way to spread out repayment of any accrued debt.

- Discuss long-term plans

If the problems look likely to be long-term it will be necessary to discuss whether your tenant will be able to afford to stay in the property and if they want to.

In reality it may have become impossible for your tenant to afford the agreed rent. If this is the case then it is important to consider the costs of maintaining and ending the tenancy, including any re-marketing and remedial works which may be necessary. Taking all of this into account, discuss with your tenant how much they are able to pay and work out whether it is in both of your interests to negotiate an adjusted rent until their finances improve.

If it seems likely that the tenancy will end as a result of arrears, discuss ending the tenancy early. Your tenant may want to move to somewhere more affordable before they accrue excessive arrears. If they wish to surrender their tenancy, discuss ways to do this which minimise costs to you both. For instance, it is commonplace to agree to release a tenant from their obligations once a new tenant has been found, in which case they may even be able to assist in speeding up the marketing process e.g. by facilitating viewings and making sure the property is nicely presented.

Alternatively, if it is not financially viable to continue the tenancy, it will be necessary to bring it to an end. If the arrears continue to build, it will be necessary to obtain a court order to end the tenancy. This can be achieved as a result of persistent under payment of rent but is usually easier if you are owed two or more months' rent. Details of how to obtain possession through the courts can be found on the NLA website [www.landlords.org.uk](http://www.landlords.org.uk)

- Remember your prior planning

If you opted to insure your risk by taking out specialist insurance or insisting on a guarantor, now is the time to check your paperwork and start organising a claim. What you need to do to claim will vary depending on the policy, but general advice may be obtained at [www.landlords.org.uk](http://www.landlords.org.uk) or by contacting the NLA Advice Line.

- Worst case scenarios

If the worst has happened and the landlord-tenant relationship has broken down, it is likely that you are owed a significant amount of rent. At this stage you will be reliant on the courts to grant possession and potentially make a financial award to help you recoup some of your losses. It is important to ensure that you observe proper process at all times and avoid mistakes when it comes to court action. The forms and guidance notes necessary to make the best of situations such as these are available to all landlords via the Associate Landlord Scheme. Visit: [www.landlords.org.uk/associate](http://www.landlords.org.uk/associate)

# Encouraging Renting

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