

Rent Arrears & Associated Debt Recovery Policy



Brighton & Hove

**Housing Management
Housing & City Support
Brighton & Hove City Council**

Rent Arrears and Associated Debt Recovery Policy

Policy Review Data	
Policy Title:	Rent Arrears & Associated Debt Recovery Policy
Date Created:	
Lead Officer:	
Job Title:	Head of Housing Management (West)
Review Period:	Every Two Years
Previous Reviews:	None
Version:	1
Date Last Amended:	n/a
Authorised By:	
Date Last Reviewed:	n/a
Date of Next Review:	

Policy Version Approval			
Authority Approval	Date Approved	Resident Approval	Date Approved
Group Management Team	14 Oct 04	Area Panel (Central)	25 Jan 05
The Management Team (TMT)	26 Jan 05	Area Panel (North & East)	8 Dec 04
TMT Chairs	2 Feb 05	Area Panel (West)	30 Nov 04
Housing Management Sub Committee	1 Mar 05	Area Panel (Brighton East)	3 Dec 04

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1. Background

- 1.1 Housing Management is responsible for minimising the amount of rent arrears and associated debts due by council tenants. Servicing the debt has a financial cost for the council, which is ultimately passed on to tenants either by higher rents or reduced services.
- 1.2 Associated debts include:
- Court Costs
 - Housing Benefit Overpayments
 - Garage and Car Parking Space Charges
 - Rechargeable Repairs
 - Former Tenants Debts
- 1.3 The council adopts a firm but fair approach to debt recovery and it is important to strike a balance between the financial needs of the council and the social well being of tenants.
- 1.4 For tenants in arrears, coping with debt can be an anxious experience and Housing Management will endeavour to provide support and assistance to tenants.

2. Performance Management

- 2.1 As at 1 April 2004, Housing Management was owed just over £3.5 million in unpaid debts.

This is enough money to finance:

- 1600 x energy efficient central heating systems
- 1800 x properties rewired
- 1750 x new kitchens
- 2150 x new bathrooms

- 2.2 Not only does debt result in a loss of services to residents it can also encourage further debt for tenants resulting in multiple debt situations arising. High levels of debt may also affect staffing numbers, putting further pressure on teams and service provision.

- 2.3 Each year the Audit Commission collects data from all local authorities relating to the proportion of rent collected as a percentage of the total rent due during the year. This does not take into account any money collected to clear arrears from previous years or pre-payments taken to cover rent due in the following year. It also does not take account of any rent arrears collected from former tenants. The target is to be in the top 25% of all Unitary Authorities by March 2007.
- 2.4 Performance will be benchmarked on a quarterly basis against other similarly sized housing authorities. This will be carried out through a benchmarking organisation called HouseMark. This data will help track performance and enable the identification of top performing authorities in order to share experiences and learn.
- 2.5 Performance will be reported to each Area Panel, Housing Management Sub-Committee and Housing Committee as part of a divisional performance report. Key performance data will also be posted on the council's website and provided to tenants on an annual basis via the tenants newsletter, Homing In.
- 2.6 Staff will be set challenging targets in relation to debt recovery which will be reviewed and monitored at 6 weekly supervisory sessions.

3. Support to Tenants in Arrears

- 3.1 The council wishes to support tenants in arrears, and work with them to develop appropriate and affordable repayment methods without having to resort to tenancy enforcement action, although such action will be taken if it is felt that it is necessary and appropriate.
- 3.2 Where there are other issues that impact on a tenant being able to pay their rent, for example physical and mental health issues, substance misuse issues, or other social issues, the council will take a holistic approach to resolving these in order to prevent debts escalating and court action. This will include early intervention and tailor making solutions for resolving individual needs. The same approach will be taken where the existence of rent arrears, and the pursuance of recovery action, is likely to have a significant impact on any children within the household.
- 3.3 Different sections of the council will work together to identify appropriate support at an early stage to ensure tenancies are sustained. However, ultimately the responsibility rests with the tenant to work with the council to resolve their issues.
- 3.4 General support and assistance will include, but is not limited to
- ensuring new tenants complete benefit forms on tenancy sign-up
 - general benefit advice

- assistance in applying for housing benefit
 - providing interim assessments of potential housing benefit awards when first taking a tenancy or advising of a change of circumstances
 - referrals to debt counselling agencies
- 3.5 The council will maximise payment methods and options for tenants and investigate the use and implementation of new technology as it is developed.
- 3.6 The council will not seize goods in debt recovery but will pursue other legal solutions including money judgements and enforce these through remedies such as attachment of earnings and garnishee orders.
- 3.7 Tenants who have outstanding debts will not normally be eligible to transfer to alternative accommodation, unless there are extenuating circumstances, or to benefit from discretionary schemes such as the Fencing, Decorating and Gardening Schemes.
- 3.8 Every effort will be made to support tenants to manage their debt, or to make and keep to an acceptable repayment plan in order to sustain their tenancy. However, where there is a wilful refusal to engage with the council or to keep to arrangements then the council will take court action with the ultimate sanction being eviction.

4. Support to Staff Managing Arrears

- 4.1 Staff will be fully trained and given sufficient flexibility to make reasonable judgements with individual cases.
- 4.2 Clear procedures are provided to staff to ensure there is a consistent approach to managing debt, complying with equalities principles and best practice.
- 4.3 All staff will receive six weekly supervisory sessions to monitor performance, set targets, identify training and development needs and to ensure they are receiving sufficient support from their managers.

5. Current Rent Arrears

- 5.1 All new tenants will be provided with benefit advice and given assistance to complete applications for housing benefit when they sign their tenancy agreement. Where the tenant is likely to be eligible for Housing Benefit the council will expect to have received a completed application and associated documentation prior to releasing the keys to a new property.

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- 5.2 All other tenants will be expected to have completed appropriate forms so that they can pay their rent by direct debit. Alternatively where new tenants are not able to pay by direct debit they will be given details of the range of alternative payment methods and will be expected to have paid at least one weeks rent in advance at the commencement of their tenancy.
- 5.3 Tenants will receive a statement of their account at least at six monthly intervals and may request a statement at any time.
- 5.4 Tenants will be advised at the earliest opportunity, usually within one week, that they are in arrears. The action to recover rent arrears follows a detailed procedure and offers tenants opportunities to bring any outstanding debt under control. Immediate clearance of the debt is preferred but is not always obtainable and an arrangement can be made to clear the debt over a reasonable period of time.
- 5.5 Officers are encouraged to make personal contact with the tenant wherever possible as this is a proven aid to tenancy sustainment.
- 5.6 At all stages of the debt recovery process tenants will be offered private interviews, benefit advice and debt counselling. This will either be provided by the council or through another agency.
- 5.7 The council will treat joint tenants as jointly and severally liable for any debt on the rent account, unless there are extenuating circumstances.
- 5.8 The council will ensure that the specific needs of black and minority ethnic households, people with disabilities, older people and those with difficulty accessing the service for any reason are met when implementing this policy. This may mean for example, the provision of interpretation services, translation of information or home visits where appropriate.
- 5.9 Tenants in arrears will be served a Notice of Seeking Possession where the debt equates to six weeks or more of the gross rent payable, unless there are extenuating circumstances. For example special care will be taken where the tenant is elderly, or where there may be difficulties in accessing the service.
- 5.10 Where the existence of rent arrears, or recovery action, is likely to have a significant impact on children within a household there will be early referrals and joint collaborative working with Children, Families & Schools. The intention will be to support such households in order to prevent debts from escalating and to remove the need for formal recovery action wherever possible.
- 5.11 If no arrangement is made to clear the debt, or if such an arrangement is made and broken, or where debts remain static or continue to increase, legal action will be commenced to protect the council's interests and recover the debt.

- 5.12 Arrears recovery action will continue to the Court date. If no agreement can be reached to settle or manage the debt at any time up to and including the Court date, the council will seek a Possession Order from the Court. This will normally be a Suspended Possession Order but there will be occasions where the Court is asked for a Full Possession Order.
- 5.13 Where no agreement is reached, or if the terms of the possession order are not adhered to the council will seek a warrant for possession.
- 5.13 The tenant will continue to be offered opportunities to repay the debt in full or to bring their rent account in line with the order. If such an agreement can be made then the council will not enforce the possession order. If no such agreement is reached, or any such agreement is broken, the council will proceed with action to evict the tenant.
- 5.14 Where the council proposes to enforce an out right order then relevant services will be advised in good time, for example the Homeless Prevention Team, Children Families & Schools and Adult Social Care.
- 5.15 Tenants will also be advised that they have a right to make an application to the Court to suspend any warrant for eviction.

6. Housing Benefit Overpayments

- 6.1 Where tenants have been overpaid Housing Benefit this will be shown as a sub account of their main rent account.
- 6.2 Tenants will be advised of the debt within two weeks of it being raised on their rent account and will be expected to make a suitable arrangement to clear the debt, preferably in full, but otherwise within a reasonable period of time as agreed by the council.
- 6.3 Where no such arrangement is made, or where it is broken, the council will use any legal and economically viable solution, except seizure of goods, to recover the debt including seeking, and enforcing, money judgements in the county court.

7. Rechargeable Repairs

- 7.1 Tenants who cause damage to their property, or who leave behind damages and rubbish when they move on, may be recharged the costs of putting the damage right and clearing the rubbish.

- 7.2 In such circumstances every effort will be made to reach a suitable arrangement to clear the debt, preferably in full, but otherwise within a reasonable period of time as agreed by the council.
- 7.2 Where no such arrangement is made, or where it is broken, the council will use any legal and economically viable solution, except seizure of goods, to recover the debt including seeking, and enforcing, money judgements in the county court.

8. Garage and Car Parking Spaces

- 8.1 All new garage and car parking space licences will be granted on the understanding that the licensee will pay either by direct debit or weekly in advance.
- 8.2 Where the licensee fails to keep to such an agreement, or has other associated housing debts, then the garage or car parking space licence will be terminated with one weeks' notice, unless there are extenuating circumstances.
- 8.3 If the licence related to a garage then the licensee will be recharged the cost for changing the garage lock and for any rubbish removal or clearance.

9. Former Tenant Debts

- 9.1 The council will pursue former tenant debt as long as recovery remains viable. This may include seeking a money judgement through the county court and taking enforcement action.
- 9.2 The council will use any legal and economically viable method, except seizure of goods, to recover former tenant debt and reserves the right to use debt recovery agencies where appropriate.

10. Responsibility

- 10.1 The overall responsibility for the effective implementation of this policy lies with the Director of Housing & City Support.
- 10.1 The Head of Housing Management (West) is responsible for ensuring all staff who deal with rents and debt recovery are provided with training so that they

successfully implement the policy and reduce housing debts owed to the council. Training will include basic debt counselling and money advice and assessment of entitlement to benefits.

11. Review and Consultation

- 11.1 The council will review its rent arrears policy at least every two years. In doing so it will consult with relevant council departments and advice agencies.
- 11.2 Any proposed changes to this policy which are significant will, before implementation, be fully discussed with:
- Relevant staff
 - Area Panels
 - Housing Management Sub-committee
 - Advice agencies
 - All other relevant bodies
- 11.3 Any minor changes to this policy will be agreed internally and reported to the next round of Area Panels and subsequent Housing Management Sub-Committee meeting.
- 11.4 Regular consultation will take place with relevant council departments and advice agencies to continually develop good practice in this policy area.

12. Associated Documents

- 12.1 This debt recovery policy is not applied in isolation, but is relevant to a number of other key policies and procedures, including:
- Abandoned Property Procedure
 - Allocations Policy
 - Debt Management Procedures
 - Debt and Money Advice Agencies
 - Debt Recovery Customer Charter
 - Homelessness Strategy 2003-2008
 - Housing Benefit Overpayment Procedures
 - Rechargeable Repairs Procedure
 - Strategy for the Prevention of Homelessness 2003-2008
 - Write Off Procedure