

Oadby & Wigston Borough Council
Community (Housing Services)
FORMER TENANT ARREARS COLLECTION POLICY
July 2016

TU approval	Not applicable
Committee approval	Service Delivery Committee: (05/07/2016)
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EA	Initial Screen



Contents

1.	Background.....	3
2.	Scope.....	3
3.	Purpose.....	3
4.	Equalities.....	4
5.	Roles & Responsibilities.....	4
6.	Vulnerability.....	4
7.	Write offs	5
8.	Credit Management Agents	5

Annex A – Former Tenant Arrears Collection Procedure

PART 1: BACKGROUND

Oadby and Wigston Borough Council levies charges for weekly rent and additional services (where appropriate) on the tenants of the Council's properties and is responsible for the collection of both current and former tenant debt.

Whilst the majority of income is collected in a routine manner, unpaid rent and charges do arise and in particular Former Tenant Arrears occur as the result of a previous tenant leaving an outstanding amount on their rent account. There may be a number of reasons for these arrears, i.e. awaited/unpaid housing benefit, death, tenant abandonment/eviction, tenant moving without notice, management transfers etc. This document sets out the principles that it expects all officers to follow in the recovery and enforcement of outstanding Former Tenant Arrears in a firm but fair manner.

PART 2: SCOPE, DEFINITIONS & RELATED POLICIES

The Former Tenant Arrears Collection Procedure implements both this policy and all the relevant provisions of the Corporate Enforcement Policy and Corporate Debt Policy in respect of the collection of unpaid rent after a tenant has left the property. It sets out the framework, which will:

- Raise & maintain awareness of the complexity of the reasons for former rent arrears
- Clarify the roles of staff in minimising arrears and maximising income
- Enable staff to take effective action, to assist and support former tenants who are experiencing financial hardship, but also to take robust recovery action against those who do not pay their due rent.
- Help to enforce the council's policy of instilling a payment culture

PART 3: PURPOSE

The purpose of this policy is to:

- Ensure a professional, consistent and timely approach to Former Tenant Debt recovery action.
- Minimise arrears after a tenant has left the property and maximise income through promoting a payment culture.
- Promote a co-ordinated approach to sharing debtor information and managing any multiple debts owed to the Council by individuals, including Former Tenant Arrears.
- Ensure that individual and exceptional circumstances are given due consideration and appropriate when pursuing debts particularly in relation to vulnerability and those who are experiencing financial hardship.
- Ensure that debts are managed in accordance with legislative provisions and best practice.
- Ensure that the principles of the Corporate Enforcement Policy for breaches of regulatory matters are regarded whilst collecting the Council's debts. Ensuring that all enforcement action taken will be consistent, proportional, open, fair and transparent.

PART 4: EQUALITIES

All individuals will be treated in accordance with the Council's Equality and Diversity agenda and the Equality Act 2010. An Equality Impact Assessment has been completed in relation to this policy.

The Council believes this policy should be fair to everyone regardless of their age, race, gender, disability, religious belief or sexual preference. Furthermore, the Council feels that it is important for debtors to communicate their situation confidentially to the Council so that we are able to make fair decisions on a case by case basis.

PART 5: ROLES & RESPONSIBILITIES

Both the Housing Services Manager and Senior Income Officer are responsible for making sure that this policy is adhered to.

All Income Management staff have the responsibility to follow the policy when carrying out their roles in respect of recovery of Former Tenant Arrears cases.

PART 6: VULNERABILITY

All debt recovery action will take account of the vulnerability and circumstances of the debtor and provide appropriate support and assistance for example, liaison with support agencies and services.

In deciding whether a person is deemed to be vulnerable, the following will be considered:

- Whether it is reasonable for the debtor to understand the consequences of the action being taken by the Council to resolve the debt.

Along with the consideration of the following factors:

- The health of the debtor and other members of the household
- The age of the debtor
- Whether the debtor has any difficulty with the language

This list is not exhaustive.

The Council may recover debts from persons who are vulnerable but will take steps to ensure its actions are reasonable in the circumstances. Each case should be considered on its own merits and extra care will be taken by Officers to ensure that the individual understands the debt, what is expected in relation to repayment and the consequences of non payment.

Officers will take reasonable steps to identify if a debtor is vulnerable prior to enforcement action but the failure to identify a vulnerable resident or where the debtor has not been co-operative will not prevent the Council from undertaking debt recovery action in a firm but fair manner.

Where it becomes apparent that a debtor is vulnerable after recovery or enforcement has commenced the Council will review its actions and consider how further recovery should be undertaken.

PART 7: WRITE OFFS

Debts may only be written off in line with Financial Regulation 20. A debt, which is properly due to the Council and deemed irrecoverable, shall only be written off as follows:

Amount	Authoriser
Less than £5,000	Chief Financial Officer or their appointed nominee
£5,001 and less than £10,000	Chief Financial Officer or their appointed nominee and the Chair of the Policy Finance and Development Committee
£10,001 or more	Policy, Finance and Development Committee

Even though a debt may be written off, it may be resurrected at a later date.

PART 8: CREDIT MANAGEMENT AGENTS

The Council uses external credit management and tracing agents to support its debt collection services. These agents' services are procured in line with the Council's Contract Procedure Rules (CPR) and Procurement Strategy. The Council reserves the right to appoint such agents as it deems necessary for the recovery of Former Tenant Arrears and may vary from time to time.

Agents will be instructed to act where debtors have not made a satisfactory arrangement for payment of the debt or have failed to maintain payment plans, or where the former tenant's whereabouts is unknown and needs to be traced.

When an account has been issued to an Agent it becomes their responsibility to collect the outstanding debts and the Council will continue to monitor the effectiveness of the Agent's services provided on its. Similarly, payments made should go directly to the Agent for recording on their systems. Any debtor who contacts the department to discuss payment must be told to negotiate with the Agent and make payments directly to them.

Cases will be withdrawn from an Agent, where there:

- Is a justified dispute in liability
- The instruction to the Agent was issued in error

Cases may be withdrawn from the Agent where:

- The debtor has recently suffered a close bereavement
- An attachment order (wages, benefit or allowances) is in effect
- The debtor is made bankrupt or the arrears become subject to a Debt Relief Order
- Recovery of the debt can be affected more effectively through another method
- The Head of Service or Housing Services Manager feels the matter should be withdrawn

The performance of an appointed Agent will reviewed at formal meetings with their account manager on a regular basis.

Annex A

Former Tenant Rent Arrears Collection Procedure

SECTION 1. INTRODUCTION

On occasion a tenant of Oadby & Wigston Borough Council will leave their property or be evicted from a property, leaving some unpaid rent. This procedure implements the Former Tenant Rent Arrears Collection Policy and sets both the method and actions to be taken to recover the outstanding arrears, so as to minimise the level of debt owed and maximise the income to the council.

SECTION 2. LEGISLATION AND GUIDANCE AND STANDARDS

N/A

SECTION 3. THE PROCEDURE

Prior to Termination/At Termination

Transfer to council owned accommodation

No tenant should be transferred to another property whilst in arrears. Both the Lettings Officer and the Housing Officers must check the rent account prior to making an offer of new accommodation and if arrears have accrued between the offer being made and sign-up, must refuse to hand over the keys to the new property until any debt has been cleared in cash.

However, there are instances where arrears are left at a previous tenancy. In these circumstances the Income Officer must obtain an agreement from the tenant to clear the arrears. The Income Team remains responsible for the monitoring of this account.

Termination with notice

When a tenant gives notice of termination it must be for a minimum of 28 days (four-weeks) and the period should end on a Sunday/Monday. The Lettings Officer will send out a **Termination of Tenancy Letter** confirming the actual termination date with a pre-termination home inspection appointment. If keys are returned before this date, the tenant will be charged rent until the termination date (unless the property is re-allocated in this period). If keys are returned after this date, rent will be payable to the next Monday following receipt of the keys. In all cases a forwarding address or work details, if applicable, must be obtained. If the tenants' rent account is in arrears when the keys are returned, the tenant must be asked to clear the arrears in cash or make an agreement to clear the outstanding debt within six weeks.

Termination without notice

If a tenant returns keys without notice and a forwarding address and or work details are required, the both the Lettings Officer and either the Income Officer or Housing Officer must endeavour to make contact to ascertain why they are leaving the property, and obtain a forwarding address. They would also state that 28 days notice is required and specify the actual termination date.

Death of a tenant

Upon notification of the death of a tenant, the Lettings Officer will send out a letter to the next of kin, stating the procedure for the handing back of the property. This letter states that a minimum of 14 days notice is required and confirming the actual termination date; that the full rent is payable until the keys have been returned and that if the deceased were in receipt of housing benefit, that this would cease on the Monday following the date of death.

Mutual Exchange

There must be no arrears at the time of the Mutual Exchange taking place and a forwarding address will be known. If under exceptional circumstances there is a small arrear agreed to be outstanding at the time of the exchange by the Housing Officer the tenant must make an agreement to clear the outstanding debt within six weeks. This must be confirmed by a follow up letter.

Eviction

Where a tenant has been evicted from a property, a money judgement is usually issued with the possession order. Any case that has been referred to court for arrears must include as part of the claim, a request for a money judgement and at the court possession hearing, Income Officers must obtain a money judgement **on all** suspended possession orders.

Prior to Termination/At Termination - Garages

Termination with notice

One weeks' notice is required for the tenant to terminate a garage. The Lettings Officer must send out a **Termination of Tenancy Letter** specifying the date the keys should be returned: If the keys are returned late, rent is payable to the Monday following receipt of the keys.

Notice to quit

A garage may be "repossessed" for non-payment of rent, using a notice to quit. If the tenant has not cleared the outstanding amount within 7 days, the locks are changed on the garage. The tenancy is terminated from the date the NTQ expires (one week later- if the arrangements are not put in place immediately) and the tenant advised that they will be charged if the keys are not returned and a lock change takes place.

Post Termination

The basic procedure for chasing FTA's is the same in all circumstances, although the approach can vary dependant on the reason for termination and the level of arrears.

Stage 1

1.1 Income Officer must check the rent account to ensure that there is no outstanding benefit due to be posted.

If a housing benefit claim is pending, the Income Officer must check with housing benefits to find out when it will be posted to the rent account and how much. If benefit is still being posted, do not pursue debtor until benefit has ceased, but advise housing benefits that the tenancy has been terminated.

1.2 Check on Orchard and in the Tenancy File to obtain any relevant information, such as date of death, key receipt, and any known telephone numbers for contacts.

1.3.1 Where the outstanding arrears are less than £50.00 the Income Officer must prepare an automatic write off recommendation for approval by the Housing Services Manager & Chief Finance Officer.

1.3.2 Where the outstanding debt is £50.00 and over and the forwarding address is UNKNOWN the Income Officer must check with Council Tax for any known addresses or other contact details. If these are established then the Income Officer must send a letter as per 1.4.

1.3.3 Where the outstanding debt is £50.00 and over and the forwarding address is UNKNOWN the Income Officer must check with Council Tax for any known addresses or other contact details. If these are not established then the Income Officer must prepare a recommendation to refer case to a Credit Management Agency for either:

- Tracing Only
- Tracing and Collection

Where the agency is able to trace the former tenant the Income Officer must send a letter as per 1.4.

1.4 The Income Officer must send letter **FTA1** and rent statement for all debts

1.5 Update Orchard accordingly making sure that appropriate account adjustments are made where write offs are approved.

Stage 2

2.1 If there is no response to letter FTA1 after 14 days, the Income Officer must send a further letter **FTA2** and if possible carry out a home visit - depending upon the location of the new address.

2.2 Update Orchard accordingly.

Stage 3

3.1 After 14 days, if there is no response to letter FTA2, the Income officer must send letter **FTA3** advising that unless the debt resolved within 7 days, the debt is to be referred to either:

- Legal proceedings via Money Claims On-line Court (**FTA3_Court Letter**)

Or

- A Credit Management Agency (**FTA3_Collection Letter**)

3.2 Update Orchard accordingly.

Stage 4

4.1 If no contact is made by the former tenant and the Income Officer is certain of their new address, refer the matter for court action via the Money Claims On-line Court.

<https://www.gov.uk/make-court-claim-for-money/overview>

4.2 If no contact is made by the former tenant and the Income Officer is not certain of their new address, refer the matter to a Credit Management Agency for recovery.

4.3 Update Orchard accordingly.

Stage 5

5.1 Monitor the account for payments/progress on a monthly basis.

5.1.2 Where an order has been made through the court and no payments are forthcoming the Income Officer must carry out the appropriate further action to enforce the breach in the Court's order.

5.1.3 Where the case has been referred to a Credit Management Agency progress with the case must be monitored via a monthly performance report submitted by the agency. In addition there must be a quarterly performance meeting between the agency and Housing Services Manager/Senior Income Officer.

5.2 Update Orchard accordingly.

Stage 6

6.1 Where an account is retained by the Council for action; it is more than 12 months old and no payment has been made, the Income Officer must prepare a write off recommendation for approval by the Housing Services Manager & Chief Finance Officer.

6.2 Where an account has been returned by a Credit Management Agency as "Unrecoverable" and is accompanied by a recommendation for write off, the Income Officer must prepare a write off recommendation for approval by the Housing Services Manager & Chief Finance Officer.

6.3 Update Orchard accordingly making sure that appropriate account adjustments are made where write offs are approved.

Where the Former Tenant is deceased

Stage 1

1.1 Where the Council is advised the tenant has died the Income Officer must send a **FTA_NoK1** letter to the next of kin, if known, requiring a response in two weeks and requesting confirmation of who is dealing with the estate of the deceased.

1.2 If the next of kin or executors contact the Council and are not willing to pay, or confirm in writing that the Former Tenant does not have any funds in their estate, the Income Officer must prepare a write off recommendation for approval by the Housing Services Manager & Chief Finance Officer.

1.3 Where there are no Next of Kin the account must be written off as "Unrecoverable" and the Income Officer must prepare a write off recommendation for approval by the Housing Services Manager & Chief Finance Officer.

1.4 Update Orchard accordingly making sure that appropriate account adjustments are made where write offs are approved.

Stage 2

2.1 If no there is response to the initial **FTA_NoK1** after two weeks, the Income Officer must send an **FTA_NoK2** letter.

2.2 If the next of kin or executors contact the Council and are not willing to pay, or confirm in writing that the Former Tenant does not have any funds in their estate, the Income Officer must prepare a write off recommendation for approval by the Housing Services Manager & Chief Finance Officer.

2.3 Update Orchard accordingly making sure that appropriate account adjustments are made where write offs are approved.

Stage 3

3.1 Where there is no response to the FTA_NoK2 after 14 days, the Income Officer must send a further reminder **FTA_NoK3** letter.

3.2 If the next of kin or executors contact the Council and are not willing to pay, or confirm in writing that the Former Tenant does not have any funds in their estate, the Income Officer must prepare a write off recommendation for approval by the Housing Services Manager & Chief Housing Officer.

Stage 4

4.1 Where there is no response to the third reminder letter, the arrears must be written off as “Unrecoverable” and the Income Officer must prepare a write off recommendation for approval by the Housing Services Manager.

4.2 Update Orchard accordingly making sure that appropriate account adjustments are made where write offs are approved.

NB Where a write off has occurred the Income Officer must send confirmation to the next of kin that a write off has been carried out and the account cleared.

Offers of Payment

Where the account is retained by the Council for action and either the former tenant or the next of kin or executors of the former tenant agree to clear the debt, the Income Officer must send a **FTA4** letter plus a DD or SO form (if appropriate), confirming the agreement to repay the debt weekly or monthly and a rent statement.

Add the agreement to the Orchard “Agreement Tab” of the rent account making sure to enter the details of both the amount and the frequency of agreed payments.

The Income Officer must monitor the account on a monthly basis for full payment or instalments.

Where an account is paid in full the Income Officer must send an **FTA6** letter, stating that account is clear.

Where the account has been referred to a Credit Management Agency for recovery and the former tenant contacts the Council and makes an offer of payment, the Income Officer must make a note of the offer, refer the former tenant back to the agency and advise them to make arrangements with the agency directly; in addition the Income Officer must inform the agency of the situation and details of the offer that has been made

Incentives to aid collection within a shorter period of time

If a former tenant clears 75% of the total debt (includes Court Costs, Rent Arrears and Repair Charges) within a period of three months, he/she will be qualified to benefit from a 25% discount on the remaining balance

If 75% of the debt is to be cleared between a periods of 6 to 12 months, then a discount of 5% is applied.

Disputed Arrears

If a former tenant or their next of kin/executors disputes the outstanding arrears, the Income Officer must advise them that the dispute has to be submitted in writing within 7 days, stating the reasons for the dispute and ensuring that clear contact address and telephone number is provided. At the same time the Income Officer must halt the recovery process for a period of no more than 14 days to allow for the submission and the investigation of the dispute.

Upon receipt of the written dispute the Income Officer will investigate all aspects/reasons of the submission and confirm their conclusion in writing within 7 days.

Should there be no written submission, following the initial contact, within 7 days then the temporary halt in the recovery process must be lifted.

Update the Orchard system at every stage, including submitting comprehensive "Arrears" notes on the account.

Write offs

Write offs are to be processed on the last day of every month. (Write offs to be actioned in batch and not individually)

Approval of the write off recommendations signed by the Chief Finance Officer must be passed to the Income Officer for the appropriate adjustment to be made to the rent account in Orchard.

All supporting paperwork for the write offs should be scanned and saved into the dedicated file on the 'F' Drive (at link below):

F:\Consumer_Services\Housing\Arrears\Former_Tenant_Arrears\Write_Offs\Write_Off_Cases_Scanned_Documents

A full list of write-offs is held on the 'F' drive (at the link below):

F:\Consumer_Services\Housing\Arrears\Former_Tenant_Arrears\Write_Offs\Write_Off_Lists

Each period's write offs must be checked by the Senior Income Officer the following week against the account to ensure the correct total has been written off. Individual rent accounts should be spot-checked by the Housing Services Manager to ensure there is no compensating error.

SECTION 3. MONITORING ARRANGEMENTS

The Income Officers responsible for implementing this procedure will be monitored by the Housing Services Manager on a monthly basis by way of one to one meetings with the Income staff and account audits (10% random sampling).

Overall performance will be monitored by way of a quarterly reconciliation comparing outstanding former tenant arrears against the overall Annual Rent Debit shown as a percentage and also records of total amount of income collected.

The Housing Services Manager is responsible to report overall performance on a quarterly basis to the Council's Service Delivery Committee.

SECTION 4. RELATED DOCUMENTS

All letters are held on Orchard and are automatically printed once selected.

FTA1 - Letter one to Former Tenant

FTA2 - Final Notice to Former Tenant

FTA3_Court – Money Claim Court Proceedings Letter

FTA3_Collections – Credit Management Agency Letter

FTA4 - Agreement Letter

FTA5 - Broken Agreement Letter

FTA6 – Account Cleared Letter

FTA7 - Write off Recommendation: Balance less than £50.00

FTA8 - Write off Recommendation: Balance between £50.00 & £5,000.00

FTA_NoK1 – Letter one to Next of Kin

FTA_NoK2 – Reminder letter to Next of Kin

FTA_NoK3 – Final Notice to Next of Kin

Copies of the all the letters are available on the 'F' Drive at the link below:

<F:\Consumer Services\Housing\Arrears\Former Tenant Arrears\FTA Letters>