

Housing Debt Recovery Policy/Procedures

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1 Introduction

Brentwood Borough Council aims to ensure effective, efficient and accountable management of its properties.

This policy aims, through effective but sympathetic guidance and advice, to minimise debt while maximising the income to the Council. This policy covers Former Tenant Rent Arrears and Housing Debt Recovery.

The Council will make every effort to obtain a forwarding address and contact telephone number from all tenants who are terminating tenancies and will make every reasonable effort to trace tenants who leave without giving a forwarding address.

Where appropriate or necessary, a third party agency may be appointed to recover former tenant debt on behalf of Brentwood Borough Council.

2 Equality & Diversity

The Council is intent on ensuring people or communities do not face discrimination or social exclusion due to any of the following protected characteristics: age; disability; sex; marriage & civil partnership; race; religion or belief; sexual orientation; gender reassignment; pregnancy & maternity.

The Council will regularly review this policy for equal opportunities implications and take the necessary action to address any inequalities that result from the implementation of the policy.

3 Aims and Objectives

Brentwood Borough Council will adopt a firm but fair approach to the recovery of debt. The Council recognises having debt is stressful to tenants and seeks to deal with these matters in a nonthreatening and sensitive manner whilst communicating the seriousness of the situation.

The Council must maximise income, and therefore prevention and pursuit of arrears are given high priority.

To minimise Former Tenant Arrears, robust end of tenancy procedures will be followed. Procedures are in place that reflects the policy guidelines that support staff in delivering the aims of the policy effectively.

The rent accounting and sub account system will be accurate and up to date, and a variety of convenient payment methods will be available.

Rent arrears will be notified to the tenant at the termination of their tenancy to allow a repayment arrangement to be agreed.

Repayment arrangements will be realistic and therefore maintainable.

The Council will provide advice where possible and will refer tenants to specialist organisations for debt management advice if required.

The Council will develop good working relationships and liaise with relevant organisations such as the Citizens Advice Bureau, Social Work Department, and any other appropriate agencies to try to ensure advice and assistance is available to former tenants in arrears.

Where it is identified that the former tenant may have any special requirements, the Council will take steps to provide the appropriate assistance or support.

Legal Action will be implemented for recovery of the debt, as a last resort, when all other methods have failed.

4. Prevention

The Council will maintain accurate and efficient monitoring systems to identify arrears early and clear procedures for recovering outstanding debt which are detailed in the Income Management Policy

5. Former Tenant Arrears

Former Tenant Arrears accumulated for the following reasons:

5.1 Death of Tenant

The Council is usually notified of a death of a tenant from Relatives, Care Home, Legal Representative or through the 'tell us once' system.

Upon the death of a Tenant the Council will only terminate a tenancy when a death certificate is received, and the Property keys are returned by the Executor of the estate/Legal Representative. Where this person is not appointed or identifiable, a Notice to Quit will be served to formally end the Tenancy and the Public Trustee informed.

If a tenant is in receipt of Housing Benefit, this will cease on date of death therefore the property continues to incur rent charges.

Outstanding arrears can be recovered from the Estate (where possible) following the death of a tenant and the Council will endeavour to liaise with Executor of the estate//relatives/legal representatives of the deceased to enquire if an estate is available to cover any outstanding balance.

5.2 Tenant Moved into Residential Care Home

When the Council is notified by either the tenant, a representative or the Care Home that a tenant is moving into a Residential Care Home, a notice period of 4 weeks is required to end the tenancy. A completed 'Termination of Tenancy' form which can be accessed online, and property keys are necessary to be returned to end the tenancy. Rent will remain due on the property during this period and until both the form and keys are returned.

If the tenant is in receipt of Housing Benefit and is receiving Respite care, Housing Benefit will be paid for a maximum period of 52 weeks providing it is intended for the tenant to return to the property.

Once a tenant is confirmed as a 'permanent resident' in a Care Home, notice must be given immediately as Housing Benefit will only be paid for a maximum period of 4 weeks from this date. The tenant or representative will be responsible for any rent outstanding which is recoverable.

If the tenant is incapable of dealing with their affairs and have no representative, the care home will need to confirm who has Power of Attorney for the Tenant to enable the Council to pursue the debt.

5.3 Termination of Tenancy

To terminate a tenancy, an on-line termination form needs to be completed and submitted to the Council by the tenant giving a notice period of 4 weeks. Keys to the property will need to be handed in by the termination date to avoid further rent charges as termination cannot be completed without termination form and Property keys being in the Council's possession.

When notice of "termination of tenancy" is received, the tenant is advised of the rent arrears balance as at the date of termination and any other costs which may be outstanding. If any outstanding arrears are not cleared by the end of the tenancy, the Council will pursue the debt in accordance with this Policy and the Former Tenancy Arrears Recovery Procedures.

5.4. Abandoned properties

When a tenant quits a property without notice, the property is considered to have been abandoned. The property is deemed to have been abandoned if the Council has reasonable grounds to believe that a property is unoccupied, and the tenant does not intend to return to the property to occupy it as their principle home.

The council will send the tenant a notice to quit giving 4 weeks to end the tenancy. During this period, the Council may speak to neighbours and contact the tenant's family or employer to try to identify the whereabouts of the tenant.

5.5 Evictions

The Council will evict Tenants for the following reasons.

- **Rent Arrears** - A large amount of rent outstanding or regularly letting rent arrears build up on the account.
- **Antisocial Behaviour** - If either a Tenant, a family member or people that visit the property cause a nuisance in the neighbourhood or use the property for illegal activities such as drug dealing
- **Breaking a Tenancy Agreement** –The Tenant is provided with a written Tenancy Agreement setting out the Tenants' rights and responsibilities including paying rent on time, allowing workmen to enter to carry out necessary repairs. The council will take court action if the Tenant breaks any terms of the agreement. Abandoned properties
- **Fraudulent applications** - If a Tenant has lied about their circumstances to get the council to provide them with a Tenancy.
- **Major works** - The council may decide to evict or decant a Tenant if there are plans to demolish or reconstruct a property. The council can also decide to evict a Tenant because it needs to carry out major repairs that can't be done while the Tenant is residing in the property and the Tenant won't agree to be temporarily rehoused.

5.6 Transfers

When a Tenant transfers between properties within the Council they are required to have a clear balance on their account before transferring. However, if the Tenant is in receipt of Housing Benefit the Law only allows Housing Benefit to be paid for the property in which the Tenant resides in. If the tenancies overlap this will create an overpayment of Housing Benefit on the old property of which the Tenant will be liable for when Housing Benefit recover the overpayment from the rent account. This will create arrears on the account.

6. Garage Former Tenant Arrears

Former Tenant Garage Arrears accumulated for the following reasons:

6.1. Termination of Garage Tenancy

To terminate a Tenancy on a garage a notice period of 2 weeks is required. The Tenant will be required to complete a termination form on-line and return the keys for the Garage by the termination date.

6.2. Abandoned Garage / Eviction

When a Tenant abandons a garage or is evicted a forwarding address is generally not known. However, in the first instance a search of the database will be carried out to obtain the latest known address for the former Tenant to enable any arrears collection process to commence.

6.3. Death of a Garage Tenant

When the Council are notified of the death of a Tenant it is the responsibility of the relative/representative of the Tenant to return the keys to the Council to enable the Council to end the garage Tenancy. The Council have the right to charge rent on the garage until the Tenancy is ended.

7. Other Debts

7.1 Re-charges

A Tenant is liable to pay re-charges for bulk waste removals, the upkeep of communal areas, unauthorised alterations and rechargeable repairs in accordance with the Recharge Policy.

These will be re-charged in accordance with the recharge policy and will be deemed as a former tenant debt if not cleared upon termination of a Tenancy.

7.2 Bankruptcy

A person or a creditor can apply for Bankruptcy if a person is unable to make payments to clear debts and meets the eligibility criteria for Bankruptcy. In order for a person to be made bankrupt, a court will have to issue an order against a person.

When a Tenant is declared Bankrupt, they may have included any rent arrears they have into the bankruptcy petition. Once a Bankruptcy date has been set, the Council cannot contact the Tenant to recover the rent arrears included in the Bankruptcy.

If there are sufficient assets to pay debts in the order, monies will be distributed by the official receiver. This means that the Council could receive all or part of the money due to clear the debt.

If there are insufficient assets to clear the outstanding debts, the debt will be written off by the official receiver.

When the Council receive confirmation, the debt will be 'written-off' in accordance with the 'write off' procedures.

The Council will continue to recover any outstanding debt which is not included in the Bankruptcy Order in accordance with the debt recovery procedure.

7.3 Debt Relief Order

A person can apply for a Debt Relief Order if the debtor is unable to pay their debts and meets the eligibility criteria's.

A Debt Relief Order lasts for 12 months during which time the Council will be unable to proceed with any debt recovery action.

At the end of the 12 Month Period the Council will proceed to take recovery action for any outstanding rent arrears or garage rent arrears which were not included in the Debt Relief Order in line with debt recovery procedures.

When the 12-month period has expired, any rent arrears debt which has been included in the Debt Relief Order will be 'written off' in accordance with the write off procedure.

7.4 Court Costs

Court Costs are accumulated when a Tenant is in arrears on a property and all means of agreements for the Tenant to make payments to clear the arrears have failed, the Council will process with legal actions. This will require the Council to apply to the court for an eviction order and incur court costs of which the Tenant will be required to pay.

7.5 TV Licence

A concessionary TV licence is offered to tenants residing in Sheltered accommodation who fit the criteria to receive this concession.

The Council will request that the scheme manager of the property completes the relevant form listing all residents that qualify. The Council will then make full Payment for a property to receive a TV licence. The payment that the Council makes will vary as it will depend on the number of residents as to the full cost of the Licence. The charge is £7.50 annually per Room, Flat or Bungalow within the Sheltered Residence.

When the Council receive a TV Licence for a property, the Council will then invoice each property £7.50 to cover the cost of the licence.

7.6 Removal Costs

When a Tenant moves from temporary accommodation they do not always have the finances at short notice to cover the cost of the removal of their belongings. Therefore, the Council will make payment for the removal costs and the Tenant will be charged to cover the costs.

8. Debt Recovery Agency

For all former tenant debts, the council will appoint a debt recovery agency.

The Council will securely send all known details of the debtor to the Debt Recovery Agency. On behalf of the Council the Debt Recovery Agency will make contact with the debtor and attempt to recover the debt in full or make a realistic arrangement with the debtor to cover the debt.

Once the debt has been passed to the debt agency to recover the outstanding debt, the debtor will need to contact the Debt Recovery Agency directly to make a payment, request any form of payment arrangement or to make any enquiries as at this point the Council cannot intervene with the recovery of the debt directly from the debtor.

The Debt Recovery Agency will forward monies collected from the debtor to Brentwood Borough Council.

9. Payment Methods

Brentwood Borough Council have made available a range of convenient payment methods for former Tenants via the 'All Pay' system, this includes:

- Payment on Smartphone using the 'All pay' App.
- Payment at the Post Office.
- Payment at any Pay Point terminal.
- Standing Order.
- Direct Debit.
- Automated Telephone Payments □ Internet Payments.

- The Council can also accept credit/debit card payments at our office and by telephone.

10. Irrecoverable Debts

Prompt and appropriate action will be taken in all cases to recover all sums overdue to the Council. However, in cases where payments are not forthcoming or the amount is less than £20 and deemed uneconomical to chase, or where Officers are unable to trace the whereabouts of a Former Tenant, consideration shall be given to writing off the debt in accordance with financial regulations..

Generally, debts under four weeks worth of rent will be approved for write off by the Director of Housing in conjunction with the Section 151 officer.

Debts over four weeks rent will be approved for write off by the Director of Housing in conjunction with the Chair and Vice Chair of the Housing Committee.

All write offs will be reported annually to the relevant Finance Committee.

When a debt has been written off, it will no longer be shown as outstanding in the Council's accounts, however, the debt remains due to the Council in law and if the Tenant is subsequently traced, the debt will be re-instated.

11. Statute Barred

Former Tenant Arrears are 'Statute Barred' after 6 years under the Limitation Act 1980. The six-year period will start from the last payment made or the last acknowledgement between the Council and the tenant. If no contact or payments are made within the 6-year period, the outstanding debt should be considered for 'write off' following this period.

12. Write-Off's

Brentwood Borough Council will not write debts off without taking appropriate steps to recover them or without approval of the responsible officer. there are some circumstances where this will be appropriate:

- Where it is not economical to pursue the debt (typically this will be debts under £100).
- Tracing action has failed to find the debtor
- The External Debt Recovery Agents deem the debt irrecoverable
- The account is 'Statute Barred' (Debt over 6 years old)

- Debtor is overseas
- Recommended by management
- Bankruptcy. Individual Voluntary arrangement. Liquidation. Debt Relief Order.
- Where one partner has left the tenancy due to domestic violence (the victim will not be pursued)
- Debtor is serving a Custodial Sentence
- Vulnerable / Hardship
- Local Authority error
- Deceased (No funds in the estate)

Should an account be written off, it is possible to reactivate if the Council subsequently trace the customer, or if the customer approaches the Council e.g. in the case of a future application for rehousing.

The write off process is undertaken on a regular basis and is considered prudent financial management.

12.1 Authorisation for Write-off's

Debts not exceeding £100 (including aggregated debts for one debtor)

Where the debt is not greater than £100 and normal recovery procedures have failed to secure payment and the debt is deemed to be uncollectable or uneconomic to pursue further, the delegated authority to approve write offs lies with the Housing Principal Officer.

Debts greater than £100 but not exceeding £10,000 (including aggregated debts for one debtor) (and for all credit balances)

Where the debt is greater than £100 but no greater than £10,000, and normal recovery procedures have failed to secure payment and the debt is deemed to be uncollectable, the delegated authority to approve write offs lies with the Section 151 Officer or their Deputy. The above procedures will also apply to how credit balances are treated; irrespective of the amount involved.

Debts of £10,000 and over (including aggregated debts for one debtor)

For the write off of debts £10,000 and over, it will require a full report to be submitted by the relevant council Committee for approval. Once authority has been given by the Committee, the Corporate Debt Manager will be notified that the debt can be written off

13. Performance Monitoring

The Debt Recovery Agency will report monthly on the collection rates, write off amounts recommended and number of traces taking place.

Officers will ensure the recovery process is efficient through regular contract management meetings.

14. Review

The Debt Recovery Policy and Procedures will be reviewed on a 3 year basis to ensure it remains relevant in accordance with other service policies.

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