Rent Arrears Policy

# Introduction

* 1. This policy outlines Medway Council Housing Services (The Council’s) approach for preventing and managing rent arrears amongst its housing stock.

# Purpose

* 1. The purpose of the Rent Arrears policy is to:
     1. minimise rent arrears through fair and firm action;
     2. enable Landlord Services to collect 100% of recoverable rent income;
     3. enable tenants to sustain tenancies and maximise their income by providing advice and support at every stage.

# Scope

* 1. This policy applies to Medway Council Housing Services employees and current tenants of HRA managed residential properties.
  2. This policy does not relate to leaseholder service charge arrears.

# Legislation and Guidance

* 1. **External**
     1. Housing Act 1985
     2. Pre-Court Action Protocol – Civic Procedure Rules, Ministry of Justice
     3. CIH good practice guide to rent collection
     4. Medway Council Housing Allocations Policy
     5. Data Protection Act 2018
     6. Protection from Eviction Act 1977
     7. Equalities Act 2010
     8. Human Rights Act 1998
     9. Welfare Reform Act 2012
  2. **Internal**
     1. Medway Council Tenancy Agreement(s)

# Policy

## Tenants responsibilities

* 1. The tenant is responsible for paying their rent in full and on time, even if the tenant claims benefits for some or all of their rent.
  2. The tenant is responsible for obtaining any housing benefit or UC housing element they are entitled to and making sure it is used only to pay the rent.
  3. Tenants must maintain their current rent account in line with the conditions set out in their tenancy agreement. This requires tenants to have at least one weeks rent money available in their current rent account at any time. If their rent is paid at any other frequency, e.g. monthly, their rent account must be a month in advance.

## Households with rent arrears applying to move property

* 1. Housing Services may refuse nominations if the nominee has a history of rent arrears. This will be done in line with the councils Allocations policy.
  2. The Council does not allow tenants to transfer within our stock if they owe debt unless exceptional circumstances apply. An exceptional circumstance may be the police or social services informing us someone in the household is at risk if they are unable to transfer.
  3. Senior Officers review cases with ‘exceptional circumstances’.
  4. If a transfer for a tenant in arrears is approved, clearing these arrears will be a condition of the new tenancy. Tenants will be informed of this and must sign up to a payment plan for the FTA before the move can take place.

## Prevention and Sustainment

* 1. Housing Services provide information and advice to customers prior to a tenancy beginning and identify tenants that may need support to manage their finances.
  2. Where such tenants are identified, they will be referred to the in-house Tenancy Sustainment Team, or to external advice/support agencies e.g. Medway CAB etc. if appropriate.
  3. Housing Officers will carry out New Tenancy Visits within six to eight weeks of a tenancy starting to determine any difficulties tenants may have paying their rent.
  4. Landlord Services will offer tenants tailored advice and support on debt, financial skills and maximising income, where appropriate.
  5. Housing Services will where appropriate make requests to the Department of Work and Pensions (DWP) for Third Party Payment towards arrears. Landlord Services will not normally make requests if a court order is already in place.
  6. Eligible tenants that have rent arrears due to the under-occupation size criteria may be offered a financial incentive to downsize to a smaller property. Any incentive payment made will be used to offset arrears on the rent account. See the Tenant Incentive Scheme policy for further details.

## Housing Benefit and Universal Credit

* 1. Housing Services will provide advice on claiming benefits and money management via its Tenancy Sustainment Team. This team can also assist tenants making Universal Credit applications.
  2. Housing Services will apply for the ‘housing costs’ element of a Universal Credit claim to be paid directly to us if a tenant meets the criteria for [Alternative Payment Arrangements](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418485/personal-budgeting-support-guidance.pdf) (APA).
  3. Where a tenant has applied for Universal Credit or Housing Benefit, is doing all they can to ensure the claim is assessed without delay, and is making interim payments as required, legal action will not be taken pending assessment of the claim.

## Other Housing related debts (sub-accounts)

* 1. All debts accrued by a tenant that are not current rent are accounted for in sub accounts R1 to R4. See below.
     1. R1 - Housing Benefit Overpayments (HBO)
     2. R2 - Court Costs (CC)
     3. R3 - Former Tenant Arrears (FTA)
     4. R4 - Rechargeable Repairs (RR)
  2. Rent arrears debts are prioritised over sub account debts.
  3. Officers will only focus on recovering sub account debt if the tenant’s main rent account is not in arrears.
  4. Sub account debt is managed in line with the separate Sub account Recovery process, or the Former Tenant Arrears policy
  5. Tenants that have sufficient credit on their current rent account, but arrears on a sub account may have money transferred from the current rent account to clear sub account debt. Landlord Services will write to tenants to inform them of this, where the amount to be transferred is greater that £150.

## Enforcement

* 1. The Housing Management team monitor every tenant with arrears and will take action in accordance with our Rent Arrears Procedure to prevent arrears increasing.
  2. Housing Officers (Income) may work outside normal office hours when required in order to contact tenants that are unavailable during office hours.
  3. Rent arrears recovery is based on a staged escalation process that depends on both the amount and length of time the tenant is in arrears.
  4. Tenants can stop the arrears recovery process by paying their arrears in full or agreeing a repayment plan with the Council.
  5. Housing Services will not seize a current tenants’ goods or possessions as a means of collecting current rent arrears.
  6. Housing Services will agree to an affordable repayment plan where a court order has not set the amount to be repaid. The repayment plan is a written agreement that provides information on the amount and frequency of arrear repayments, the repayment dates and the method of making payments.
  7. Landlord Services may extend the terms of an Introductory Tenancy by a further 6 months if the rent account is in arrears.
  8. Housing Services will take legal action after all requirements of the pre action protocol have been met. Eviction is only pursued if all other methods of resolution have been tried and not worked.

## Possession Action

* 1. A formal Notice will always be served if the Council is considering possession action. This Notice is a legal requirement and gives at least one month’s notice of the issue of Court proceedings.
  2. The Notice explains why the Council is seeking to repossess a home and give a date after which court proceedings may be started. The Notice advises tenants to contact agencies able to offer support and/or representation in court, including the Citizen’s Advice Bureau and Solicitors.
  3. Housing Services offer tenants a meeting to discuss their circumstances with a Senior Officer prior to proceeding with an eviction.
  4. The Chef Housing Officer or their nominee approves all cases considered for eviction.
  5. Tenants will be advised and supported to seek a variation to a Court ordered repayment plan, if the plan is unsustainable and/or putting the tenant under undue financial pressure.
  6. Housing Services will request an order from the courts for all costs to be recharged to the tenant.
  7. Housing Services will only share information with other landlords regarding a former tenants’ rent account if the former tenant has agreed for us to disclose this information.

# Role, responsibilities and authority

* 1. The Assistant Director of Physical and Cultural Regeneration retains responsibility for the implementation of this policy.
  2. The Chef Housing Officer has responsibility for ensuring this policy complies with Regulatory and Legislative requirements and meets the Council’s Business Plan.
  3. All staff involved in income collection activities are responsible for implementing this policy.

# Monitoring, review and evaluation

* 1. Senior Management will monitor, review and evaluate performance on rent arrears recovery on a regular basis.
  2. This policy will be reviewed every two years or in line with legislative or regulatory changes.

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