



Former Tenant Arrears Policy

1. Introduction

- 1.1 This policy sets out how Medway Council Landlord Services intends to collect and manage all Former Tenant Arrears (FTA's).

2. Purpose

- 2.1. The purpose of the Former Tenant Arrears policy is to:
 - 2.1.1 maximise income and sustain the HRA Business Plan;
 - 2.1.2 manage FTA's consistently and prevent 'bad debt' remaining on tenants accounts.

3. Scope

- 3.1. This policy applies to:
 - 3.1.1. Medway Council Landlord Services employees;
 - 3.1.2. current/former tenants of HRA managed residential properties;
 - 3.1.3. Partners to which Medway Council refers former tenants' debt.
- 3.2. The policy relates to rent, service charges and sundry debts owed to Medway Council on residential properties and garages.

4. Legislation and Guidance

4.1. External

- 4.1.1. Housing Act 1985
- 4.1.2. Protection from Eviction Act 1977
- 4.1.3. Landlord and Tenant Act 1987
- 4.1.4. Civil Procedure Rules 1998
- 4.1.5. County Court Act 1984
- 4.1.6. Human Rights Act 1998
- 4.1.7. Equalities Act 2010
- 4.1.8. Data Protect Act 1998

4.2. Internal

- 4.2.1. Medway Council Tenancy Agreement(s)

5. The Policy

5.1. Current Tenants with former tenant arrears (FTA's)

- 5.2. 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.
- 5.3. Senior Officers review cases with 'exceptional circumstances'.
- 5.4. If Senior Officers approve a transfer for a tenant in arrears the debt will be transferred to their new tenancy as a former tenant arrear. Tenants will be informed of this and must sign up to a payment plan for the FTA before the move can take place.

5.5. Landlord Services makes every effort to not offer tenancies to people with outstanding debt. If it becomes known a tenant has transferred and still has FTA's from a previous tenancy (including FTA's relating to garages) they will still be responsible for the debt. Landlord Services will notify the tenant and transfer the debt to their new address as a former tenant arrear. A payment plan will be set up for the FTA.

5.6. Credit on the tenants current rent account or sub-account will be used to offset the former tenant arrear.

5.7. New Lettings

5.8. Housing Officers will follow the councils Rent Arrears Policy to minimise the potential for FTA's to accrue.

5.9. Landlord Services ask tenants to provide personal details and contact details of a relative or friend in order to trace FTA's if they occur. Information is kept secure and used in compliance with the Data Protection Act 1998.

5.10. Tracing former tenants

5.11. Tenants that end their tenancy by notice and have arrears on their account will be able to agree a repayment plan within their termination document. Tenants must provide a forwarding address and contact details.

5.12. Landlord Services will contact former tenants with debt within four weeks of them terminating their tenancy if they have not agreed a payment plan or made any repayments. This will be done in accordance with our FTA's procedure.

5.13. Landlord Services will state in correspondence that if the reader is not the intended recipient they return the letter along with the address of the intended recipient if known.

5.14. Recovery where an address is known

5.15. The debtor when contacting the council will be able to pay the debt in full or set up a payment plan that is affordable and has a reasonable time scale.

5.16. Payment plans will be recorded and monitored by Housing Officers.

5.17. Recovery following the death of a tenant or a tenant moving into care

5.18. If the tenant has died or moved into care and debt has arisen as a result the usual recovery procedures will apply. Housing Officers will use a sympathetic approach when contacting the next of kin or executors.

5.19. If the tenant has died and there is no next of kin Landlord Services will write to the public trustee requesting payment from any estate that has been left.

5.20. Enforcement

5.21. Landlord Services will take enforcement action against former tenants in arrears that fail to repay the debt or adhere to a repayment plan.

5.22. Landlord Services will use methods and processes in pursuit of FTA's appropriate to the amount and age of the debt.

- 5.23. These methods include but are not limited to:
- 5.23.1. making a money claim online (MCOL) via the HM Courts & Tribunals Service Internet based service;
 - 5.23.2. referring the debt to a debt collection agency based a 'no collect no fee' basis.
- 5.24. Landlord Services must obtain a Money Judgement Order before any other court recovery action can be pursued.
- 5.25. A Money Judgement is valid for six years and can be enforced at any point throughout that period. Only the amount specified in the judgement will be enforced.
- 5.26. Landlord Services will refer a case back to court for a warrant ordering payment if the debtor does not honour the conditions of a County Court Judgement (Money Judgement) Order.
- 5.27. The extent and length of time to which a debt is pursued will depend on the level of the debt compared to the cost of recovery.
- 5.28. Write Offs**
- 5.29. Landlord Services will refer debt to senior officers for 'write off' if the debtor cannot be traced within one year and the FTA is not economically worthwhile to pursue.
- 5.30. Landlord Service consider write offs where exceptional circumstances apply. Exceptional circumstance may arise from the former tenant's mental capacity, a terminal illness, domestic violence or debt due to long-term imprisonment.
- 5.31. Landlord Services refer cases for 'write off' if the former tenant has died and the Executor or public trustee confirms there is no estate.
- 5.32. If Landlord Services has not contacted a debtor for a period of six years the debt will be considered Statute Barred and written off accordingly.
- 6. Role, Responsibilities and Authority**
- 6.1. The Assistant Director of Physical and Cultural Regeneration retains the overall responsibility for implementing this policy.
- 6.2. The Head of Housing Management is responsible for the operational delivery of this policy, associated procedures and ensuring compliance with regulatory and legislative requirements.
- 7. Monitoring, Review and Evaluation**
- 7.1. The Income Manager will monitor FTA cases with reference to the amount of debt and that procedure is followed.
- 7.2. This policy will be reviewed every two years or in line with legislative or regulatory changes.

Policy Version Control Sheet
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This Version: April 2017 – Changes made to policy to include MCOL process