



Welwyn Hatfield Borough Council

Rent Arrears Policy

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| Scope: | This policy applies to all tenants who have a Secure Tenancy, a Flexible Tenancy or a Non Secure Tenancy with Welwyn Hatfield Borough Council. |
| Effective Date: | January 2019 |
| Review Date: | January 2022 |
| Signed Off : | Cabinet on 8 January 2019 |
| Author: | Income Team Leader and Home Ownership Manager |
| Policy Owned by: | Income and Home Ownership |
| Statute | Housing Act 1988 Equality Act 2010 Data Protection Act 2018 Welfare Reform Act 2012 Pre-Court Action Protocol – Civic Procedure Rules |
| National Standards | N/A |

Rent Arrears Policy

1 Scope

- 1.1 This policy applies to all tenants who have a Secure Tenancy, Flexible Tenancy or Non Secure Tenancy with Welwyn Hatfield Borough Council.
- 1.2 This policy does not apply to leaseholders (including equity share properties)
- 1.3 Rent money owed to us by people who are no longer our tenants is dealt with in line with the Former Tenants Arrears policy.

2 Policy Statement

- 2.1 The aim of the policy is to set out the council's approach to recovering rent arrears in order to be as effective as we can be in minimising tenant debt. This policy will be applied in a firm but fair way, underpinned with early contact and support in order to prevent arrears from accruing and to ensure that a tenant can receive the right advice at the earliest opportunity.
- 2.2 Rent payments are due in advance in accordance with council tenancy agreement. We aim to ensure value for money by adopting a robust procedure to maximise our income to enable the council to meet its financial obligations.
- 2.3 The specific objectives of the Rent Arrears Policy are to:
 - Effectively collect rent due and maximise income.
 - Offer comprehensive support to tenants to sustain their tenancies at all stages of the recovery process.
 - When appropriate, take legal action swiftly to minimise arrears increasing ensuring action is proportionate and adheres to all legislative requirements, i.e. Pre-Action Protocol.

3 Our Approach

- 3.1 Rent is a priority debt and must be paid without exception. It is one of the most important bills a tenant has to pay.
- 3.2 It is the tenant's responsibility to pay the rent in full, in advance and on time. This is clearly set out in the tenancy agreement.
- 3.3 The council expects tenants rent accounts to be in advance at all times during their payment cycle, e.g. if a tenant pays their rent monthly, they should be one month in advance, so that the rent account is never in debt. Where a rent account is in arrears only because payment patterns do not match the council's weekly accounting periods, the council will work with tenants to enable them make extra payments to

bring their account into advanced payment. This includes tenants in receipt of housing benefit or Universal Credit.

- 3.4 We will provide full information on how and when to pay rent when the tenancy agreement is signed. We also explain the consequences of not paying rent and what debt support services are offered locally. Where support issues are identified at a new tenancy sign-up, we will refer tenants for local support to either specialist council officers or Citizen Advice.
- 3.5 The council's preferred method of payment is Direct Debit, but we will offer multiple payment methods for tenants to pay their rent. If rent is not paid, it becomes arrears. This is a debt that tenants owe to us as their landlord.
- 3.6 We take arrears very seriously, even when it is just a small amount. Arrears can put a tenant's home at risk. Arrears also mean that we have less to spend on important services to tenants' homes.
- 3.7 Rent statements will be provided/accessible to all tenants on a regular basis and at every stage of the arrears recovery process.
- 3.8 We encourage tenants to speak to their Income Officer at an early stage if they are experiencing difficulties with paying their rent.

Taking court action

- 3.9 We will take tenants to court to ensure that they pay us arrears that are owed after reasonable attempts have been made to engage with the tenant to settle the debt. This is a serious step and will result *in* the tenant having to pay for court costs. If bailiffs are involved, their costs will have to be paid by the tenant as well.
- 3.10 We will follow the steps laid out by the Civil Justice Commission's Pre-Action Protocol when court action is being taken.

How we can help

- 3.11 We understand that times can sometimes be difficult. This makes it more important that payment of rent is prioritised by tenants. Once rent arrears start to build they can become difficult to repay.
- 3.12 We are willing to help tenants who are in arrears. It is essential that we contact the tenant as early as possible and that the tenants speak to us as soon as they are in difficulties.
- 3.13 We can signpost tenants to Citizen's Advice Bureau. This is very important when tenants are trying to pay multiple debts.
- 3.14 We expect arrears to be paid in full, but will on a case by case basis come to an arrangement with tenants to repay arrears.

3.15 There are many ways we can offer support. This includes advice on employment and training.

3.16 We will offer multiple options for tenants to pay their rent such as:

- Direct Debit
- Online payments
- Internet banking payments
- Telephone payments
- Standing order
- Pay Point (Used when making payments in newsagents, garages, etc)
- Council employees can pay through salary
- Cheque

3.17 Direct Debit is the council's preferred method of payment.

Early Contact

3.18 We will contact tenants as soon as their rent account falls into arrears. We expect that tenants will work with us to sort out the debt. We expect that tenants will put things right at this early stage.

Low level or static debt

3.19 We take even small arrears seriously.

3.20 We will take firm action on low level debt. This is to protect our income and to protect the tenant falling into further arrears and financial difficulties.

3.21 This may also apply to small debts which may have been sitting on the rent account for a long time (static debt), even when they are not increasing.

3.22 We may serve notice and take legal action to recover money we are owed, where it is cost effective to do so.

Benefits

3.23 We know that benefit payment problems can lead to arrears. It is important that tenants talk to us straight away if this is the case.

3.24 We may not start court proceedings where arrears are because of an outstanding benefit claim. This is only where a tenant can evidence that they have a genuine chance of getting benefits and has provided all the information required.

3.25 We expect tenants to be paying any rent due which is not covered by Housing Benefit.

3.26 Tenants in receipt of Universal credit are expected to make payments to cover the full weekly rental charge where they receive the benefit payments direct to themselves.

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- 3.27 All tenants receiving benefits, are expected to be in advance with their rent payments, in the same way as tenants do not receive any benefits.

Vulnerable tenants

- 3.28 There is no standard definition of what is meant by the term 'vulnerable'. We will try to identify potential vulnerabilities as early as possible to enable us to offer the right support. Examples may include tenants with disability, drug or alcohol dependencies, mental health or elderly.
- 3.29 We will work in partnership with tenants, voluntary organisations and other support providers to offer extra support and guidance. We can signpost to agencies that offer support that is tailored to tenants' circumstances.
- 3.30 Equality Impact Assessments will be carried out to identify support needs through the arrears recovery process and services tailored to meet the needs of individuals where appropriate.
- 3.31 While we accept that vulnerable tenants may need additional support, we still expect rent to be paid on time and arrears repaid quickly.

Joint tenants

- 3.32 Both tenants are 'jointly and severally' responsible for paying the full rent and for any rent arrears. This means that if one joint tenant does not pay, the other is fully liable.
- 3.33 This will still be the case where universal credit is only paid to one tenant, or where one joint tenant has left the property.

Staff

- 3.34 The council will train its staff in procedures to recover rent arrears. Continuous training will be available on legal updates, housing law, welfare benefit/reform updates, equality and diversity, safeguarding and any other relevant topic which will impact on collecting rental income.
- 3.35 Staff will provide tenants with welfare and housing benefits advice. They will also offer basic debt advice in order to support tenants to sustain their tenancy.

Garages

- 3.36 If tenants owe more than 4 weeks rent on their council home, where the garage tenancy agreement allows, we will seek to take action to recover their council rented garage. This is due to rent arrears being a priority debt and should take precedent over other rental charges.
- 3.37 Action to recover the garage will be taken (serving of a Notice to Quit) if the rent arrears on the council home remains outstanding, even if garage rent is up to date.

4 Taking Legal Action: Serving a Notice of Seeking Possession (NOSP)

- 4.1 Notices will be served for arrears where tenant(s) are 28 calendar days/ 4 weeks or more in rent arrears.
- 4.2 We will normally serve the notice by post, but where appropriate we will serve by hand at the tenants' home address.
- 4.3 We can serve notice after a shorter time and reserve the right to do this in exceptional circumstances, e.g. where a tenant fails to make payments towards static or low level arrears less than 4 weeks rent.
- 4.4 We will still serve a notice even if an arrangement has been made if the arrears remain more than 4 weeks. This is to protect the council's interest in the debt owed.
- 4.5 We may still serve a notice where benefit eligibility has been established, but a tenant is not making payments towards any rent arrears owed.
- 4.6 We may delay serving a notice where the vulnerability of the tenant means that there are significant support issues.

Secure Tenancy (including Flexible Tenancy)

- 4.7 We will seek possession under Ground(s) 1 of Schedule 2 to the Housing Act 1985 - 'Any rent lawfully due from the tenant has not been paid or the obligation of the tenancy has been broken or not performed'.
- 4.8 The notice is valid for 12 months from the date it becomes 'live', unless the tenant clears the arrears before it become live.

A notice will be re-issued after the 12 months lapse if the arrears remain and no court action has been taken.

Notice to Quit (NTQ) – Non- Secure Tenancy and Licensees

- 4.9 We will serve a Notice to Quit where a licensee has up to 28 days or more in arrears and has not responded to our efforts to make contact, or has broken their agreement to repay arrears. We will ensure its use is proportionate.

5 Court Action

- 5.1 We will apply to court for a possession order where:
 - The tenant has refused to get in contact with us.
 - The tenant has not come to an agreement with us.
 - The tenant has come to an agreement with us, but has not kept to it.
 - Arrears are not reducing.

We will apply to court for a possession order once the notice has expired and will notify the tenant before applying to court. We will take into account the personal circumstances of the tenant before applying to court.

Adjournments

- 5.2 We may adjourn a case on terms if we can make an agreement with the tenant before any court hearing and the agreement is made and maintained prior to the court hearing.
- 5.3 Under the Housing Acts 1985 there is a duty on the court to impose some form of payment on the tenant on making an adjournment, save where it would be unreasonable. We will always ask for repayment terms when agreeing to any adjournment.

Court orders

- 5.4 We will consider the tenant's circumstances when deciding to seek a possession order, including:
- Ability to repay the debt.
 - Their benefit situation.
 - Their payment history.
- 5.5 We will usually seek either a Suspended Possession Order (SPO) or an Outright Possession Order (OPO) from the court.
- 5.6 A money judgement will always be sought with any possession order, in addition to an order for costs incurred.

Alternative payment orders

- 5.7 Alternative ways of seeking payments may be used. However, we will not use distraint / seizure of goods.

Attachment of earnings

- 5.8 The tenant's employer may be empowered to make regular deductions from the tenant's earnings and pay them directly into their rent account.

Insolvency Arrangements – Bankruptcy, Individual Voluntary Arrangements (IVA) and Debt Relief Orders (DRO)

- 5.9 Where a tenant has an insolvency arrangement they remain liable to pay current rent as usual.
- 5.10 We do not have to write off rent arrears where bankruptcy has occurred. We may deal with repayment of rent arrears in line with this policy, and follow standard procedures for recovery action where arrangements are not kept to.

5.11 The main feature of a DRO is a ban (called a moratorium) which prevents creditors pursuing debts for a period of 12 months. Tenants with a DRO are still liable to pay current rent, and any rent arrears incurred after the DRO has been made are not covered by the moratorium. We will deal with repayment of these arrears in line with this policy.

Eviction

5.12 The council will only seek to evict as a last resort.

5.13 No eviction can take place without both Team Leader and Manager approval. This is something we take very seriously. We will only carry out an eviction where a county court bailiff is present and we will work with the bailiff to ensure that it is done as sensitively as possible.

5.14 We will send written notification of the date of the eviction to both the tenant and the council's housing needs team.

5.15 We will advise all tenants to seek independent legal advice following our approval for officers to apply for an eviction.

6 Joint Working

6.1 Officers will work closely with internal and external partners to ensure that cases are being dealt with in a prompt and efficient manner, so that the rent account is maintained and payments are being made in a timely manner.

6.2 Partnership arrangements will be adopted where possible to ensure a comprehensive support service is in place for tenants in arrears or experiencing financial difficulties.

7 Loss of Rights for Tenants in Arrears

7.1 Tenants in arrears will not usually be allowed to move home via the transfer list. (See the council's Allocations Policy).

7.2 Tenants in arrears may not be able to carry out tenancy changes such as mutual exchanges and creating joint or sole tenancies, etc. until the arrears are cleared.

7.3 If a tenant is in arrears, any compensation or redress payments will be offset against their arrears with any remaining money due payable to the tenant.

8 Contacting the Income Team

8.1 Tenants can contact us in a number of ways, including by phone, email, online, in person or by letter.

8.2 Tenants can also check their rent account online through the council website.

9 Review of Decision and Complaints

- 9.1 Any tenant who is not satisfied with the manner in which the council or its contractor(s) has dealt with the service they have received regarding the Income Management Service has the right to have their case investigated.
- 9.2 The tenant should follow the council's complaint procedure if they wish to make a complaint.

10 Monitoring

- 10.1 We are committed to operating a successful rent collection service.
- 10.2 Officers will monitor arrears cases every week, identify the source of arrears and take action as appropriate and in accordance with the Rent Arrears Recovery Procedure.
- 10.3 The Team Leader will monitor performance weekly, reviewing targets and actions regularly to ensure compliance with policy and procedures and that there is a consistent approach to arrears recovery.
- 10.4 We will regularly review our policy, procedures and correspondence.

11 Data Protection

- 11.1 Council staff will adhere to the principles of the Data Protection Act 2018 when discussing or sharing tenant's information with external agencies.
- 11.2 When sending documents electronically by email which contain confidential information the documents will be encrypted to protect the content and information.
- 11.3 Regular updates and training will be given to ensure staff are fully aware of their responsibilities relating to data protection.

12 Equality and Diversity

- 12.1 The council will treat all customers and staff with fairness and respect. We value diversity and work to promote equality and tackle unlawful discrimination.
- 12.2 We are committed to helping customers to access information about their homes and services in a way that suits individual needs.
- 12.3 We will meet the requirements relating to equality and diversity laid down in the Equality Act 2010 by working to:
- Eliminate discrimination, harassment and victimisation
 - Advance equality of opportunity and
 - Foster good relations between all of our residents, service users and staff.
- 12.4 The council is committed to welcoming and valuing diversity, promoting equality of opportunity and tackling unlawful discrimination. We will not discriminate against staff,

customers or others based on their sex, sexual orientation, marital status, pregnancy and maternity, gender reassignment, race, religion, belief, disability or age (collectively referred to as protected characteristics in the Equality Act 2010).

- 12.5 The council aims to provide homes and services that meet the diverse needs of customers. We believe that all customers should be able to access housing, support and care services with the same ease and that the quality of our service is the same high standard for all.

Related Documents

| Document | Link |
|----------------------------|---|
| Connected Policies: | Equality and Diversity Policy Allocations Policy Tenancy Policy |
| Forms and Letters: | N/A |
| Leaflets: | Rent Arrears – Tenants Guide Ways to Pay your Rent |

Version history

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|---------------------------------------|--|------------------------|--------------|
| Version no. | 1 | Date effective: | January 2019 |
| Full / partial review? | New Policy | | |
| Brief summary of changes: | New Policy | | |
| Staff consultation (teams): | Housing and Communities, Income and Home Ownership | | |
| Resident consultation: | Tenants Panel | | |
| Approved By Cabinet / Council: | 08 January 2019 | | |
| Author: | Kathy Robertson/Simon Kiff – Income Team Leader / Income and Home Ownership Manager | | |