

Version

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APPENDIX A



# Welwyn Hatfield Borough Council

## Former Tenant Arrears Policy

<b>Scope:</b>	This policy applies to all former council tenants of Welwyn Hatfield Borough Council.
<b>Effective Date:</b>	March 2025
<b>Review Date:</b>	March 2028
<b>Approved:</b>	<a href="#">Cabinet March 2025</a>
<b>Author:</b>	Income and Home Ownership Manager
<b>Policy Owned by:</b>	Income and Home Ownership
<b>Statute</b>	Housing Act 1988 Equality Act 2010 Data Protection Act 2018 Welfare Reform Act 2012 Debt Respite Scheme (Breathing Space) guidance <a href="#">Human Rights Act 1998</a>
<b>National Standards</b>	N/A

# Former Tenant Arrears

## 1 Scope

- 1.1 This policy applies to all tenants who have or have had a Secure Tenancy, Flexible Tenancy or Non-Secure Tenancy with Welwyn Hatfield Borough Council (the council).

## 2 Statement

- 2.1 Former Tenant Arrears (FTA) refers to rent arrears left by a tenant whose tenancy has ended and they no longer live in their home. It applies to all former tenant accounts including rent arrears, court cost, garage rent arrears, non-secure arrears, rechargeable arrears and use and occupation charges.
- 2.2 Collection of FTA is important to the council. Any debts owed to the council greatly reduce the level of service we can provide to our tenants. We will be proactive in collecting Former Tenant Arrears (FTA), using a range of methods in a flexible, but fair and consistent way. We will use the methods which are considered to be the most effective on a case-by-case basis and that deliver value for money.

## 3 Policy

### Prevention of Former Tenant Arrears

- 3.1 The council is focused on preventing FTA. While the tenant is living in the home we will work with them to try and prevent them falling into arrears wherever possible, managed in line with the council's Rent Arrears Policy. This will include providing debt, benefit or general money advice where possible. We will also signpost to relevant agencies that can advise the tenant if we are unable to do so.

### Contacting Former Tenants and Tracing

- 3.2 The Sundry Debt and Arrears officer is responsible for collecting FTA.
- 3.3 We understand the importance of acting promptly to increase collection of FTA. The relevant officer will identify FTA at an early stage and contact the former tenant. We will contact former tenants using a variety of methods.
- 3.4 Where we have no up to date contact details on the former tenant or we need more information we will use tracing to try and locate the former tenant. Tracing is the method of finding a person's contact details.

## 4 Former Tenant Debt Collection

- 4.1 The council understands that each case of FTA is different and the same collection methods will not be suitable for all cases. The officer will consider on a case-by-case

basis what collection method(s) would be the most effective and the best value for money.

- 4.2 We have a flexible approach to collection and the officer should regularly review the case to see if using different collection methods may be more successful.

#### **Debt Collection Agency (DCA)**

- 4.3 The council will use a DCA when we have been unsuccessful in collection or tracing the former Resident. The DCA will return the case after 3 months if no arrangement has been made.
- 4.4 If the case is returned by the DCA due to unsuccessful trace, ~~we will continue to do inhouse tracing for the next year. If unsuccessful the~~ debt ~~will to~~ be written off.
- 4.5 If returned by the DCA due to being unsuccessful in collecting the debt a write off will be completed.
- 4.6 Where appropriate we will use in house tracing process using a compliant third-party service.

#### **Court Action**

- 4.7 We will begin court action where we have taken reasonable action to collect the debt, but this has been unsuccessful and we feel court action will be effective. We will always inform the former tenant of our intention before beginning court action.
- 4.8 We do not condone or employ the use of seizure of goods / distraint as a tool for collecting former tenant arrears, either directly, or via any employed agent.

## **5 Repayment Arrangements**

- 5.1 We understand that sometimes it is not possible for the former tenant to pay the full FTA immediately. In such cases we will agree to a repayment plan. The aim is for the former tenant to pay the arrears as quickly as they can, but the officer should ensure any repayment plan is affordable for the former tenant.
- 5.2 When agreeing the repayment plan with the former tenant, the officer will consider the former tenant's financial circumstances and what they can afford to pay. An income and expenditure sheet (budget assessment) will be completed with the former tenant for all repayment arrangements.
- 5.3 If a tenant with rent arrears is transferred to another council property on management grounds, for example, serious anti-social behaviour or domestic violence, terms to clear the former tenant debt should be agreed and confirmed before the move takes place and included in the new property tenancy agreement.

#### **Missed payments**

- 5.4 Where a repayment plan is in place but a payment is missed, we will contact the former tenant within seven days to ask them to immediately make the missed

payment. If they are unable to do so then any repayment plan and/or discount may be removed and collection may immediately begin for the full amount.

#### **Discounts**

- 5.5 The officer may offer a discount of up to 25% to help the former tenant clear their debt quickly and as one lump sum. A discount is only offered for debts over £200 and once a budget assessment has been completed.
- 5.6 The amount of discount and the number of instalments offered must be authorised by an officer's line manager.
- 5.7 In exceptional circumstances, discounts of more than 25% may be offered where the decision has been authorised by the [Head of Housing Operations-Assistant Director \(Finance\)](#).
- 5.8 Total discounted debt is to be cleared within three months of the confirmed written agreed discount.
- 5.9 The total amount of discounted debt which remains outstanding after the agreed debt amount has been cleared will be written off following the write-off approval process in section 6.

## **6 When to Write-Off Debts - in line with Financial Regulations**

- 6.1 Every effort will be made to recover debts. Action to trace the former tenant and recover the debt will be taken before giving consideration to be recommended for write-off.

6.2 Writing off of debts will be approved in line with the council's Financial Regulations within the Councils constitution, which are set out below.

6-26.3 The Councils Section 151 Officer has determined delegation of approval for write offs up to £5,000

#### **Debts under £50**

6-36.4 When the debt is under £50 the ~~FT~~former tenant arrears will be approved for write-off by the ~~officer's line manager~~Income and Home Ownership Manager as it is deemed as uneconomical to pursue / collect.

#### **Debts between £50 and over £50£5,000**

6.5 When the debt between £50 and £2,500 the former tenant arrears will be reviewed and approved for write-off by the Income and Home Ownership Manager in line circumstances for write-offs shown overleaf.

6.6 When the debt between £2,500 and £5,000 the former tenant arrears will be reviewed and approved for write-off by the Assistant Director (Finance) in line circumstances for write-offs shown overleaf.

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Authorisation limits for the writing off of debt will be as follows, with write-offs over £10,000 requested on the advice of the Section 151 officer.

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Value	Authorised by
Amounts under £5,000	Individual officers and limits determined, where specific procedures are in place for categories of debt, which have been approved by the Section 151 Officer.
Amounts under £10,000	Section 151 Officer in consultation with Executive Member for Resources
£10,000 to £49,999	Executive Member for Resources
£50,000 and above	Cabinet
Any Value which will cause a deficit in the General Fund or Housing Revenue Account	Council

#### Circumstance for Write-Offs

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Circumstances of Debt	Debt £50.00 - £199.99	Debt £200 and above
<u>Tenant dies with no successor or, Tenant moved into residential care.</u>	<u>Write off if there has been no response from executor/debtor within 28 days of sending a letter, or if there are insufficient funds to pay.</u>	<u>Write off if there has been no response from executor/debtor to two letters within 56 days, or there are insufficient funds.</u>
<u>Tenant has left property for any other reason</u>	<u>Contact former tenant and/or Next of Kin (NOK) if we have their details. If not then carry out in-house tracing. If tracing is successful then start collection. If tracing is unsuccessful case will be forwarded to DCA for Trace and collect. If DCA unable to contact for 3 months debt to be returned and written off.</u>	<u>Where in-house tracing has been unsuccessful, refer to external Debt Collection Agency (DCA). The contractor in all cases where no arrangement has been made within 3 months from date of receipt of the case from the Council shall return the case to the Council. If returned due to no forwarding address found then we will carry out in-house tracing every 13 weeks. Where there has been no success after one year, FTA will be written off.</u>

**Extra information for evicted tenants**

We are aware that if the former tenant has been evicted and has not already re-paid the FTA after receiving a Court order then it may be difficult to recover the FTA. However, often former tenants' circumstances change and they may become in a position to repay their FTA when previously they were not. The officer will carry out in-house tracing to check the former tenant's circumstances and then begin collection action as appropriate.

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Circumstances of Debt	Debt £50.00 - £199.99	Debt £200 and above
<b>Tenant dies with no successor or, Tenant moved into residential care.</b>	Write off if there has been no response from executor/debtor within 28 days of sending a letter, or if there are insufficient funds to pay.	Write off if there has been no response from executor/debtor to two letters within 56 days, or there are insufficient funds.
<b>Tenant has left property for any other reason</b>	Contact former tenant and/or Next of Kin (NOK) if we have their details. If not then carry out in-house tracing. If tracing is successful then start collection. If tracing is unsuccessful case will be forwarded to DCA for Trace and collect. If DCA unable to contact for 3 months debt to be returned and written off.	Where in-house tracing has been unsuccessful, refer to external Debt Collection Agency (DCA). The contractor in all cases where no arrangement has been made within 3 months from date of receipt of the case from the Council shall return the case to the Council. If returned due to no forwarding address found then we will carry out in-house tracing every 13 weeks. Where there has been no success after one year, FTA will be written off.
<b>Extra information for evicted tenants</b>	We are aware that if the former tenant has been evicted and has not already re-paid the FTA after receiving a Court order then it may be difficult to recover the FTA. However, often former tenants' circumstances change and they may become in a position to repay their FTA when previously they were not. The officer will carry out in-house tracing to check the former tenant's circumstances and then begin collection action as appropriate.	

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s over six years old, no legal action has been taken and there has been no payment with the debtor within a six year period.

6.76.8 If a former tenant approaches us for re-housing at any time, we will reinstate any FTA previously written off, unless the debt has been written off as statute barred.

## 7 Disputes

- 7.1 The council will seek to resolve any disputes about the amount of FTA owed in a prompt and fair manner.
- 7.2 When disputing the amount of FTA owed, it is the former tenant's responsibility to provide evidence to support their claim, such as receipts proving the rent they have paid.

## 8 Former Tenant Credits

- 8.1 For up to six years after a tenant leaves their property with any size of credit on their rent account we will make regular attempts to try and return this to the former tenant or Next of Kin (NOK). *After six years we will not proactively attempt to return this, but if a former tenant or NOK contacts us and requests repayment of this amount, we will*

~~re-pay this amount in full (minus any other money owed to us, e.g., for rechargeable repairs).~~

- 8.2 If despite our attempts the FTC is unclaimed after 6 years, the time limit for suing the council for this sum will have expired and the council will 'write-on' these amounts back into our budgets.

## 9 Debt Respite Scheme (Breathing Space)

- 9.1 The Government's new 'Breathing Space' period will freeze interest, fees and enforcement for people in problem debt, with further protections for those in mental health crisis treatment.
- 9.2 A 60-day breathing space period will see enforcement action from creditors halted and interest frozen for people with problem debt. During this period, individuals will receive professional debt advice to find a long-term solution to their financial difficulties.
- 9.3 Those receiving mental health crisis treatment will receive the same protections until their treatment is complete, in acknowledgement of the clear impact problem debt can have on wellbeing.
- 9.4 All requests for Breathing Space will be requested through The Insolvency Service.
- 9.5 When requests are made, we will follow the government guidance.

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## 10 Contacting the Income Team

- 10.1 Tenants can contact us in a number of ways, including by phone, email, online, in person or by letter.
- 10.2 The council's service standards set out the time frame of when customers will receive a response.

## 11 Review of Decision and Complaints

- 11.1 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.
- 11.2 The tenant should follow the council's complaint procedure if they wish to make a complaint.

## 12 Monitoring

- 12.1 We are committed to operating a successful FTA collection service.
- 12.2 Officers will monitor FTA accounts every month and take action as appropriate and in accordance with the FTA Recovery Procedure.



12.3 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.

12.4 We will regularly review our policy, procedures and correspondence.

### **13 Data Protection**

13.1 Council staff will adhere to the principles of the Data Protection Act 2018 when discussing or sharing tenant's information with external agencies.

13.2 When sending documents by electronically by email which contain confidential information the documents will be encrypted to protect the content and information.

13.3 Regular updates and training will be given to ensure staff are fully aware of their responsibilities relating to data protection.

### **14 Equality and Diversity**

14.1 The council will treat all customers and staff with fairness and respect. We value diversity and work to promote equality and tackle unlawful discrimination.

14.2 We are committed to helping customers to access information about their homes and services in a way that suits individual needs.

14.3 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.

14.4 The council is committed to welcoming and valuing diversity, promoting equality of opportunity and tackling unlawful discrimination.

14.5 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).

14.6 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
<b>Connected Policies:</b>	Equality and Diversity Policy Complaints Policy Rent Arrears Policy
<b>Forms and Letters:</b>	<a href="#">Income and Expenditure Sheet</a> , <a href="#">Agreement to Pay form</a> , <a href="#">Write off/on form</a> , <a href="#">insufficient funds form</a> , <a href="#">FTA recovery 1 letter</a> , <a href="#">FTA recovery 2 letter</a> , <a href="#">FTA NOK 1 letter</a> , <a href="#">FTA NOK 2 letter</a> , <a href="#">FTA residential care 1 letter</a> , <a href="#">FTA residential care 2 letter</a> , <a href="#">FTA Before Court action letter</a> , <a href="#">FTA DCA recovery letter</a> , <a href="#">Missing Re-Payment Arrangement letter</a> , <a href="#">FTA in credit 1 letter</a> , <a href="#">FTA in credit 2 letter</a>
<b>Leaflets:</b>	N/A
<b>Other:</b>	Debt Respite Scheme (Breathing Space) guidance Council's Financial Regulation

## Version history

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

<b>Version no.</b>	2	<b>Date effective:</b>	April 2021
<b>Full / partial review?</b>	Partial Review		
<b>Brief summary of changes:</b>	Alignment of write-off approvals to councils Financial Regulations and adoption of the new 'Breathing Space' guidance.		
<b>Staff consultation (teams):</b>	Housing and Communities, Income and Home Ownership		
<b>Resident consultation:</b>	n/a		
<b>Approved By Cabinet / Council:</b>	April 2021		
<b>Author:</b>	Simon Kiff – Income and Home Ownership Manager		

<b>Version no.</b>	3	<b>Date effective:</b>	March 2025
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<b><u>Full / partial review?</u></b>	Full review
<b><u>Brief summary of changes:</u></b>	<u>Adding Human rights act 1998 to statute 4.4 Removal of additional checks once returned from DCA, 5.7 due to change of structure, change from Head of operations to assistant director, 8.1 removal of writing credit back onto account is removed after 6 years (statute barred)</u>
<b><u>Staff consultation (teams):</u></b>	<u>Income and Home Ownership</u>
<b><u>Resident consultation:</u></b>	<u>n/a</u>
<b><u>Approved By Cabinet / Council:</u></b>	<u>March 2025</u>
<b><u>Author:</u></b>	<u>Simon Kiff – Income and Home Ownership Manager</u>