



Strategic Housing Service

Emergency Accommodation

Arrears and Former Tenant Arrears Policy

TAMWORTH BOROUGH COUNCIL

FORMER TENANT ARREARS POLICY

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Introduction

Tamworth Borough Council will actively manage tenants who reside in emergency accommodation provided by the Authority when discharging its homeless functions. However when a resident leaves Emergency Accommodation provided under s188 or s193 of the Housing Act 1996 (as amended 2002) and moves into long term settled accommodation, leaving a debt on their rent account, the debt they owe Tamworth Borough Council (TBC) becomes 'Former Tenant Arrears'.

This policy sets out how the Council will deal with these debts. It is Tamworth Borough Council's intention to minimise former tenant arrears from emergency accommodation through the effective management of handling of current arrears, however, a certain amount of former tenant arrears will inevitably accumulate.

Tamworth Borough Council will investigate the reasons for any arrears and where possible will take the necessary action to use an enforcement agency for any amount £30 or over to recover the debt. It is important to be seen by residents that all debts will be pursued; this sends out a clear message that the authority takes a firm approach to the collection of debts.

This policy applies to all former residents of emergency accommodation provided by Tamworth Borough Council in response to its statutory duties under s188 and s193 of the Housing Act 1996 (as amended 2002) and sits alongside Tamworth Borough Councils procedures for the collection of former tenant arrears from Council managed properties where the tenant leaves owing rent arrears or other related debts to the Council.

Aims of the Policy

All residents have a responsibility to pay rent due, in full, during the time spent in emergency accommodation.

The purpose of this policy is to give clear guidance on how former tenant arrears will be dealt with, and to ensure a consistency of approach across the organisation. This in turn will promote a prompt, robust and effective approach to minimising former tenant arrears, instigating action at the earliest possible stage in order to maximise collection.

How to action Former tenant arrears

Notice of Offer

Within two working days of notification of an offer of accommodation (Council, private sector or nomination to registered provider or a nomination to a private sector leased property), the Housing Solutions Advisors will inform the tenant in writing that all rent arrears and associated charges, rechargeable repairs and all debts should be cleared prior to leaving the emergency accommodation.

If there is no formal response to this letter, issues such as rent arrears, repayment arrangements, and forwarding address can be discussed at the pre-termination visit, which the Housing Solutions Officer conducts with the tenant.

The tenant should sign a document to accept any rent arrears outstanding at that time and state their preferred option of repayment. It is the responsibility of the Housing Solutions Officer to ensure a clear rent account is achieved prior to the termination of the accommodation. Where the rent account is clear a letter will be issued with a rent statement to this effect advising the customer that their account is clear and that there are no arrears outstanding.

If there are any credits on the account and there are no arrears then this credit will be placed against any Council Rent Account if the customer is offered a Council Property.

The Housing Solutions Officer should record all of the information received on the Orchard System and all hard copies should be scanned and kept on the relevant file. The information should include the termination form, notes of any agreements made regarding the arrears and their repayments, and a forwarding address. Where the Council is unable to obtain a forwarding address it will use a credit reference agency to find this.

Tamworth Borough Council may use all the tools available to pursue former tenant arrears including Small Claims Court and associated enforcement, Department of Work and Pensions arrears direct payments, tracing agencies, enforcing money judgements and recovering all associated costs.

The Council will accept a minimum weekly payment of the sum that could be collected via direct payments from the Department of Work and Pensions, currently £3.70 per week as an acceptable method of repaying debt via instalments. However, this is the minimum amount for those on Job Seekers Allowance or Income support, in addition, all circumstances need to be taken into account and recorded on Orchard. In exceptional cases with supporting documentation, we may accept a lower repayment amount. Where a customer is working an assessment may be made to determine what is affordable to repay to the authority.

Procedure

The authority will not chase emergency accommodation debts of under £30 due to this being uneconomical.

The former tenant debt recovery process starts when a client's period of occupation has ended and they have left the emergency accommodation.

The stages below provide an outline of the recovery process with further detail as shown in the flow chart. .

From termination of tenancy:

4 weeks after the tenancy has ended a check should be made on the account to ensure that all housing benefit has been paid in full and a forwarding address is available. Where there is no forwarding address the Council may use a credit reference agency to find an address.

Where there are outstanding arrears of £30+ then a letter should be sent advising of the debt and asking the customer to contact the authority to make arrangements to repay the debt.

8 weeks after the tenancy has finished if there has been no response or repayment agreement made following the first letter then a second arrears letter should be sent and an appointment made for the customer to visit the Council Offices to discuss the outstanding arrears. At the

appointment the customer will be offered a referral to the councils preferred Money Advice Service for support and assistance with any debts and to assist them in managing their financial affairs.

The account will then be checked again after 12 weeks, and if there has been no response to previous letters and the customer has failed to attend appointments or engage with the authority then the account will be monitored on a 6 monthly basis and contact made advising of the debt and asking the customer to contact the Authority and make arrangements for the repayment of any debt.

The officer will then attempt to visit the customer at home if the address is known to discuss the arrears

The officer will then attempt to make contact via phone three times

If no response from letters, and applicant still resides at forwarding address, forward debt to an Enforcement / Debt Collection Agency for recovery.

If response received from client, a repayment agreement should be made.

Set up the agreement with client, (sign)

Monitor on a monthly basis to ensure payments are being made.

Credit Balances

At the point of termination, the Housing Solutions Advisor will need to check the accounts. Where a credit balance exists we will conduct a system check for related accounts in arrears (e.g. emergency accommodation provision to emergency accommodation provision), if any account is found a transfer will be completed immediately (checks with other departments will not be required).

If there is a credit on the account and there is no related accounts then checks will be made first with Estate Management to determine if there are any rent arrears outstanding and then any other debt to the Council (Council Tax, Housing Benefit). We will then write to the former tenant explaining our intention to offset the credit against the debt.

If no accounts are found, the credit will be refunded to the former tenant directly. If a credit remains outstanding within a period of 18 months with no forwarding address known, the balance will be referred for a write-off (see paragraph 7)

Disputes

If any part of the debt is disputed, the correct balance should be verified before any further action is taken. The former tenant or their nominated representative will receive a letter of explanation.

Housing Benefit Issues – liaise with the relevant department in order to substantiate the former tenant balance. All disputes should be resolved and tenants notified in writing within 10 working days.

Unable to Trace

If the balance remains outstanding and exceeds £30.00 (or one weeks rent), the account will be referred to a Debt Collection Agency (once this is confirmed). If the balance is below £30.00 the account may be referred for write off using criteria 'All Recovery Action Exhausted'.

Referring case for 'Write Off'

Write offs will be actioned in accordance with the Housing Solutions Service Write off Procedure and in line with the following criteria:

Tenant Declared Bankrupt

Official documentation must be received and kept on file, copy to be supplied with write off request.

Debt Relief Order

When the twelve month moratorium period has passed arrange for the sum(s) in the sub account(s) to be written off as the Council cannot pursue these sums any further. (see separate procedure on Debt Relief Orders)

Outstanding Credit

On an account and the current address for former tenant is not known/unable to trace. The credit will remain on the system for a period of 18 months.

Unable To Trace

No forwarding address can be traced for a period of 18 months. All traces have been completed in accordance with the procedure document.

Uneconomic To Pursue

The debt is below £30.00 and is uneconomical to pursue.

All Recovery Action Has Been Exhausted

Incorporating cases returned by the Debt Collection Agency which are unable to trace/collect or when it is uneconomic to pursue through legal recourse. All relevant recovery procedures have been completed without success and the likelihood of further recovery is considered negligible.

Special Cases

Where there is a special reason for the debt to be written off, then a declaration form should be completed by a nominated representative and held on file.

Statute Barred

The debt is six or more years old and the circumstances are such that it is inappropriate to seek leave of the court to enforce the debt.

Re-instated Cases

Circumstances may occur which lead to a fresh opportunity to recover debt previously written off. Written confirmation of the debt will be sought from the debtor and a payment arrangement agreed. However, the debt will not be re-instated into the system (written on) until payments under the agreed arrangement have been made to a level where the Housing Solutions Service is satisfied that they are sustainable. It will then be the responsibility of the Housing Solutions Officer to re-instate the debt.

Review

As a general rule, the policy should be reviewed every 2 years unless legislation is introduced to warrant an earlier review, next review is due November 2019.

