

Housing Rent Arrears Policy

1. Overview / Policy Statement

- 1.1 This policy is joint between South Oxfordshire and Vale of White Horse District Councils (the councils). The councils, as a social landlord, must minimise current rent arrears to maximise income. This supports the organisation in sustaining financial viability, meeting its business objectives, and delivering a high level of service.
- 1.2 The councils are committed to supporting tenants to pay their rent when due and will proactively support tenants to tackle any arrears and will take enforcement action only to manage increasing or static debt to the organisation and where obtaining a possession order is necessary to protect the councils' interest when the rent arrears are high.
- 1.3 This policy applies to all tenants or licence holders that are occupying temporary accommodation.
- 1.4 The relevant procedure will be delivered by the Housing Landlord team.

2. Objectives

- 2.1 The purpose of this policy is to:
 - Ensure the full collection of income for the councils to enable the financial viability of the housing service to be maintained.
 - Ensure that tenants comply with their tenancy agreement by paying the rent and service charge when due and in advance.
 - Ensure early intervention and that tenants are contacted at the earliest possible time when they fall into arrears.
 - Maintain a consistent and effective approach to arrears recovery.
 - Assist tenants who fall into arrears to access the most appropriate support and advice.
 - Comply with the Public Sector Equality Duty (s.149 of the Equality Act 2010).
 - Collaborate with agencies and organisations representing tenants.
 - Outline what legal action the councils may take if a tenant fails to take reasonable steps to manage their arrears.

3. Scope

- 3.1 This policy applies to all housing accommodation let and provided by the councils, and includes residents accommodated under any housing scheme the councils operate, including:
- Temporary accommodation let using non-secure tenancies
 - B&B and hotel accommodation
 - Secure tenancies
- 3.2 This policy also applies to licenses and use and occupation accounts.

4. Roles and Responsibilities for Delivery

- 4.1 The Housing Delivery team is responsible for the management of rent arrears.
- 4.2 The Housing Delivery team will work closely with welfare and support agencies to ensure that tenants with rent arrears are maximising their welfare benefits and are given guidance on budgeting their household income.
- 4.3 The Housing Delivery team will work in partnership with all relevant external agencies to ensure that a comprehensive arrears management service is delivered.
- 4.4 The Housing Delivery team will be responsible for adhering to the pre action protocol and submitting the 'Proportionality Assessment to commence legal action' form prior to serving a Notice, and 'Rent Possession Claims – Pre Action-Checklist and Authority to take Legal Proceedings. Any application for possession will require sign off from the Housing Delivery Manager.
- 4.5 The Housing Delivery Manager will sign off any request to apply for the bailiff's warrant.
- 4.6 The councils will ensure staff are trained to fulfil the requirements within this policy.

5. Relevant Legislation

- 5.1 The relevant legislation (and regulations) includes the following:
- [Regulatory standards for landlords - GOV.UK](#)
 - Homelessness Reduction Act 2017
 - Housing and Planning Act 2016
 - Localism Act 2011
 - Equality Act 2010
 - Housing Act 2004
 - Housing Act 1996
 - Housing Act 1988
 - Landlord and Tenant Act 1985
 - Protection from Eviction Act 1977

6. Relevant Policy and Procedure

- 6.1 The relevant policy and procedures are listed below:
- The councils' Arrears Recovery Procedure
 - The councils' Rent Setting Policy
 - Data Protection policy
- 6.2 The relevant health and safety policy and codes for the councils will also apply to this policy. This includes, but is not restricted to:
- First Aid
 - Violence and Aggression at work
 - Workplace Safety
 - Incident Reporting and Investigation
 - Manual Handling

7. Policy and Procedure

Rental Payments

- 7.1 The councils offer a wide range of methods for tenants to pay the rent due which are designed to meet diverse needs. The options include:
- Standing order [weekly or monthly]
 - Debit or credit card over the phone either by the automated phone system
 - Online payments
 - Direct payments from the council as Housing Benefit
 - Alternative Payment Arrangements (APA) and Third-Party Payments (TPP) from the DWP, that are paid when the council requests these payments from the DWP
- 7.2 All tenants will be encouraged to make arrangements to pay the rent in advance (as per the tenancy/license agreement), either weekly or monthly. This includes asking for a week's advance rent at new tenancy sign-ups.

Arrears Prevention

- 7.3 All new tenants are clearly advised of their responsibility to ensure that the rent is paid in full and on time by the Housing Needs team at the point of allocation, and the Housing team at the start of the tenancy.
- 7.4 New tenants are also advised that it is their responsibility to ensure that they make and maintain any claims for Housing Benefit and Universal Credit. Where appropriate, tenants will be supported by Community Support Officers and/or the Housing team in making and maintaining claims for Housing Benefit and Universal Credit.

Current Tenants

- 7.5 All tenants are responsible for contacting the Housing team, should they be experiencing financial difficulties which means that they are unable to pay the rent due.

- 7.6 When a tenant's rent account is showing arrears, they will also receive prompt notification of this from the Housing team. In line with the Arrears Recovery Procedure this will be a combination of telephone calls, emails, letters, and home visits as appropriate.
- 7.7 All rent accounts are managed securely by the Housing team and in compliance with the Data Protection Act 2018.

Welfare Reform and Money Advice

- 7.8 The Housing team will provide advice and assistance, and/or signpost tenants to external agencies, whether they have rent arrears or otherwise, where appropriate. Advice may include, but is not limited to, income maximisation, benefit entitlement, debt management, and support to gain further training and maximise employment or volunteering opportunities.
- 7.9 The Housing team will ensure that the tenant is signposted as necessary to obtain impartial advice and assistance regarding all aspects of benefits, including:
- Undertaking benefit entitlement checks
 - Maximising tenants' income through benefit take-up
 - Assistance in completing any relevant forms, including online
 - Advice and support for tenants claiming Universal Credit and Housing Benefit
 - Signposting to relevant organisations
- 7.10 The councils are committed to providing the best help to their tenants regarding money matters. Details of charities and helplines designed to support money matters are published on the councils' websites.

Rent Account Monitoring and Tenant Contact

- 7.11 The Housing team will monitor rent accounts four weekly to ensure early intervention. Officers will strive to make personal contact with tenants throughout the arrears recovery process to:
- Ensure they are fully aware of the implications of non-payment.
 - Ensure they are fully aware of the actions that will be taken in response to non-payment.
 - Provide tenants with maximum opportunities and encouragement to engage with us to reduce and clear the debt.
- 7.12 Officers will ensure that they are available and accessible to tenants in a reasonable way, and will offer and use appropriate methods of contact, including phone calls, e-mails, text messages (where messages do not compromise data protection), letters, home visits, and where possible, out-of-hours office appointments. Translation services or Easy Read communications are available on request.
- 7.13 Every effort will be made to ensure face-to-face communications with tenants throughout the arrears recovery process wherever practical. This will include translated documents and access to interpretation where appropriate. All tenant

contact will be logged on a relevant IT system (Abrisas). All data pertaining to this policy will be stored and managed in line with statutory data protection requirements, as outlined in the councils' data protection policy.

Early Intervention

- 7.14 The councils will ensure that the rent arrears recovery procedure is followed in all cases and that the Civil Procedure rules relating to the Pre-action protocol for possession claims by social landlords are complied with at all times.
- 7.15 The councils are committed to minimising rent arrears by preventing these becoming a major, long-term problem wherever possible.
- 7.16 The Housing team will inform tenants as soon as they become aware of the arrears that the tenant has accrued, and any arrears and/or payments are missed.
- 7.17 Wherever possible, personal contact with tenants in arrears will be achieved and maintained throughout the process. Letters/emails will always be sent directly to the tenant and legal notices delivered by hand.

Repayment Arrangements

- 7.18 The councils require rent arrears to be repaid in a timescale and frequency that is reasonable and practicable, considering the tenant's circumstances and financial situation. It is not the aim of the councils to create a repayment plan that put tenants into debt with other agencies.
- 7.19 Agreements will be affordable and realistic and will always reflect consideration of the tenant's financial circumstances and the anticipated time within which the agreement will clear the arrears.
- 7.20 To this end a financial assessment will, where possible, be undertaken between the tenant and Housing team to ensure that the agreement can be adhered to by the tenant without placing them in financial hardship.
- 7.21 The councils are committed to contacting tenants throughout the arrears recovery process and sustaining contact at every stage, using the most appropriate methods according to circumstances.
- 7.22 Tenants will be made fully aware of the consequences of not making and subsequently complying with a repayment agreement.
- 7.23 All tenants must pay their rent, but the councils recognise that some have difficulties maintaining their responsibility for reasons often beyond their control. The councils may refer to such tenants as having additional support needs, and this term is designed to support the tenant, not stigmatise or blame them.

Tenants with Additional Support Needs

- 7.24 The Housing team recognise that some tenants may need and benefit from assistance and support. Council officers will engage with tenants to identify additional support needs at the earliest opportunity and will assist in identifying and securing appropriate support for tenants to manage their rent and sustain their tenancies.
- 7.25 Tenants may be classed as having additional support needs for one or more of (but not limited to) the following reasons:
- Physical disabilities
 - Mental health issues
 - Learning difficulties and/or intellectual disabilities
 - Being elderly
 - Being a former relevant child or qualifying care leaver
 - Terminal illness
 - Long-term health conditions and hospitalisation
 - Substance misuse dependency
 - Experience of domestic abuse
- 7.26 The councils additionally acknowledge tenants included in a Refugee Accommodation Programme may demonstrate vulnerability outside of the criteria listed above due to challenges that may arise from having English as an additional language, integrating into a new cultural context, their immigration status and associated personal experiences.
- 7.27 The councils acknowledge that temporary or permanent financial management problems can result from these, or a wide range of associated reasons.
- 7.28 The Housing team will therefore ensure that the needs of tenants are taken into account when taking action to recover rent arrears and gain tenant consent where possible and appropriate. This includes referring or signposting the tenant to any welfare and support agencies and liaising with appropriate external agencies and family to provide support with the financial affairs of tenants with additional support needs.

Taking Possession Action

- 7.29 The councils will take legal action to recover rent arrears where the tenant is failing to take reasonable and adequate steps to resolve the situation resulting in arrears that are significant or persistent.
- 7.30 The councils will undertake this action to protect their position in the event of the tenant continuing to default on payments for unacceptable lengths of time or failing to maintain regular repayments of a debt as per an agreement or failing to engage or address their arrears.
- 7.31 Where a tenant has a licence agreement or has a use and occupation account, a Notice to Quit will be served in line with the Pre-action Protocol. A Notice to Quit equates to mandatory possession from the court and gives a short notice period before an application can be made to the county court for a possession order.

- 7.32 The councils will serve a notice but not commence possession proceedings against a tenant while a claim for Universal Credit or Housing Benefit is awaiting assessment, providing the tenant has provided the requested information and the claim is awaiting assessment.

Licensees (TA Let to Tenants Through a Licence Agreement)

- 7.33 These applicants will be given licences to occupy the temporary accommodation and Notice to Quit (NTQ) will be served where the licensee falls into substantial arrears with no arrangement in place.
- 7.34 A court order will always be obtained after a notice to quit has expired where necessary to comply with the Protection from Eviction Act 1977. This is when a tenant is housed under Section 193 of the Housing Act 1996 in council-owned self-contained accommodation.
- 7.35 For tenants who are placed in privately owned bed and breakfast accommodation or commercial hotel (where a licence agreement is not provided) reasonable notice is required with each case based on its own merits.
- 7.36 For tenants or licensees, who are housed under Section 188 or Section 190 of the Housing Act 1996, or under any section in a council-owned hostel, a possession order is not required by law. In such cases officers will give reasonable notice and may seek a possession order in some cases, as dictated by the individual circumstances of the tenant, and with regard to any additional support needs.

Debt Relief Orders (DROs) and Bankruptcy

- 7.37 DROs are a way for tenants to deal with their debts where they owe under £30,000 and do not have much spare income.
- 7.38 The existence of a DRO does not prevent the court from making a possession order against a tenant on the ground of rent arrears (or any other ground). This applies regardless of the tenant's security of tenure. However, where the arrears are listed in a DRO, the court cannot suspend (or postpone) the possession order on terms of the payment of those arrears.
- 7.39 Alternatively, the court can suspend an order for possession on the condition of payment of current rent and costs. When a DRO is made after the making of such a suspended/postponed possession order, the DRO will have the effect only to extinguish the judgment debt up to the making of the DRO, but not any subsequent arrears accrued during and after the moratorium period.
- 7.40 Bankruptcy is an insolvency measure for individuals unable to pay their debts when they become due.
- 7.41 Where possession is sought on the grounds of non-payment of rent, there are restrictions on the jurisdiction of the court to deal with the councils' financial claim for possession.

- 7.42 If the arrears are provable in the bankruptcy (i.e. they accrued before the bankruptcy order was made), the court can make an order for possession but cannot suspend it or postpone it on terms of payment of those arrears. The councils will also be unable to obtain a money judgment for those arrears.
- 7.43 If the rent arrears are not provable in the bankruptcy (i.e. they accrued after the bankruptcy order was made), the court can suspend or postpone an order for possession on payment of current rent and rent arrears that are not provable in the bankruptcy.
- 7.44 Where a DRO or bankruptcy order is made, any rent arrears included at in the order are to be moved to a sub account. If and when the order is discharged and the resident provides the proof of the order being discharged, the rent on the sub account will be written off.

Joint Tenants

- 7.45 Joint tenants are jointly and severally liable for any arrears that occur. This means that each joint tenant can be individually and separately responsible and pursued for rent arrears.
- 7.46 In cases where safeguarding concerns or domestic abuse have been identified in joint tenancies, the councils will operate on a case-by-case basis to best support tenants with additional support needs if rent arrears have arisen.
- 7.47 The councils will endeavour to contact joint tenants separately in the event of serious arrears occurring and prior to and during any possible or actual legal action. A separate notice will be served for each tenant.

Death of a Tenant

- 7.48 The full rent for a property remains payable following the death of a tenant until possession of the property is returned to Housing team (the keys are returned) where there is no successor to the tenancy. Any Housing Benefit/UC entitlement will cease at the end of the week after the date of death.
- 7.49 Any party remaining in occupation after the NTQ has expired will be charged for use and occupation (mesne profits) until a possession order is affected or they are offered an introductory tenancy/fixed term tenancy. See the Succession policy and procedure. When parties remain in occupation, the Housing team will be advised to ensure occupants are aware they can apply for Housing Benefit or Universal Credit.
- 7.50 The councils will seek to recover any outstanding rent from the deceased's estate where appropriate. Where the executor confirms in writing that there is no estate and/or no resources available to settle the account of the deceased, the councils will cancel the debt owed through following the most up-to-date council Scheme of Delegation relating to write-offs.

Repairs and Disrepair Claims

- 7.51 When tenants provide a reason for non-payment of rent as being because of outstanding repairs/disrepair, the councils will investigate and resolve disrepair issues. However, tenants will also be advised that the tenancy agreement does not allow for rent to be withheld for this purpose.
- 7.52 Tenants will see the councils as 'one organisation' so when a tenant report issues with repairs as a reason for withholding rent payments, it is important the relevant council team takes ownership. This will include liaising with appointed contractors and may also include completing a joint home visit. The councils will undertake or arrange for their contractor to undertake all necessary steps, including undertaking inspections and repairs.

Rent Refunds

- 7.53 The councils will monitor credit balances on accounts and advise tenants that they may request a refund where appropriate. The councils will consider all requests for refund of surplus credit on accounts.
- 7.54 All refunds will be awarded at our discretion; we will take into consideration the payment method, payment patterns, the time it takes for refunds to reach tenants as in some circumstances, it will be more economical for tenants to stop paying the rent to use up the credit; and relevant circumstances in calculating any credit to refund in order to prevent the tenant from falling into arrears in the near future. We may, in exceptional circumstances, agree to a refund which would cause the account to fall into cyclical arrears, such as where this would help alleviate financial hardship.
- 7.55 The councils will offset recoverable debt from a credit balance before issuing a refund, such as a former tenant arrears, court costs, rechargeable repairs, or Housing Benefit overpayments (where the overpayment relates to the same address as where there is the credit balance).
- 7.56 Where there is no reasonable prospect of returning credit balances, the councils will usually deal with these as a write-on to their financial accounts. The councils will not normally refund credits which have exceeded the statutory limitations of such monies of 6 years and have been written on to their financial accounts.

Unclaimed Goods Following Eviction

- 7.57 Tenancy agreements issued by the councils may not include detailed provisions for what to do with belongings left behind after an eviction.
- 7.58 The councils seek to be consistent in the way that they deal with possessions left in a property. Reasonable steps will be taken to enable a former tenant to remove goods left in a property, which will include making multiple attempts to make contact with the former tenant and allowing a period for goods to be collected.

- 7.59 In the rare event that goods of value are left unclaimed in a property, the councils will consider the use of the Torts (Interference with Goods) Act 1977. This Act provides a route through which the councils can sell possessions left in a property to offset any outstanding former tenant arrear.

Monitoring

- 7.60 Performance in relation to the delivery of the services and activities set out in this policy will be monitored on an ongoing basis through established reporting procedures and those which might be developed by resident panels and other engagement mechanisms.

8. Employment Contractual Status

- 8.1 This policy does not form part of the contract of employment for South Oxfordshire District Council or the Vale of White Horse District Council.

9. Communication and Contact Information

- 9.1 The councils will have the provision to publicise aspects relating to this policy (and the associated procedure) such as outcomes for collection and tenancy sustainment. The policy will be published on the website and given to tenants as part of the sign-up process.
- 9.2 For further information about this policy, please contact the Housing team via email: email_tenants@southandvale.gov.uk or telephone 01235 422000.

10. Alternative Formats

- 10.1 Please do not hesitate to contact a member of the Housing team if you would like this policy in an alternative format, via: tenants@southandvale.gov.uk or telephone 01235 422000.

11. Definitions

- 11.1 Rent arrears are rent payments that are overdue.
- 11.2 Static arrears are rent arrears which are neither increasing nor decreasing. These are usually caused by missed payment[s] which are not settled at a later date.

12. Change Record

Change Record	
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Version number	1
Owner(s)	Housing Delivery Manager
Author(s)	Housing Delivery Manager
Approved by	ICMD

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