

KEY POLICY: SERVICE DELIVERY

Last Reviewed: New Policy

Date: October 2009

Review: October 2012

FORMER TENANT ARREARS RECOVERY POLICY

1.0 Policy Statement

This policy aims to promote a robust and effective, yet sensitive approach to former tenant arrears recovery by instigating action at the earliest possible stage in order to maximise rent collection.

2.0 Key Strategic Link

Cumbria Housing Strategy 2006 - 2011

To create a balanced housing market where local people can afford to find a home, where house prices and rents are affordable to the vast majority of households and a place where people want to stay.

South Lakes Housing Business Plan 2007-2011

To maximise income through the efficient collection of rental income and sundry debts.

3.0 Key Policy Links

This Policy should be read in conjunction with our Corporate Debt, Rent Collection & Arrears, Equality and Diversity, Special Needs & Vulnerable Persons and Complaints, Remedies and Compensation Policies, Allocations Policy

4.0 Key Objectives

The Key objectives of the Former Tenant Arrears policy are:

- To maximise rental income;
- To take preventative action to reduce the level of former tenant arrears;
- To minimise the need to write-off former tenant arrears;
- To ensure tenants are aware of their ongoing rental responsibilities and obligations even after the tenancy has terminated;
- To recover arrears, as far as possible, with the voluntary cooperation of the former tenant;
- To ensure an equitable and consistent approach to former tenant debts, in accordance with the E & D Policy;
- To ensure that SLH complies with all relevant legislation and good practice in relation to the prevention and minimisation of rent arrears.

5.0 Definition

For the purpose of this policy and accompanying procedures, the following definition shall apply:

Former tenant arrears are amounts of rent or debt that remain outstanding on a property when the tenancy has ended.

6.0 Key Points of Policy

6.1 Notice of termination

Within two working days of receiving an official notice to terminate a tenancy a Housing Assistant will inform the tenant in writing that all rent arrears and associated charges such as rechargeable repairs should be cleared prior to the termination of tenancy.

6.2 Deceased cases

In all deceased cases a death certificate is required and a next of kin details should be recorded on the rent account. When the tenancy ceases an appropriate letter and statement of account should be sent. If after 2 weeks there is no response a further letter and statutory declaration form should be sent to the next of kin.

If after 6 weeks no response is received the file should be referred to the Business Improvement Manager for write off.

6.3 Standard arrears cases

All arrears cases will receive a FTA 1. If the balance is under £100.00 and no contact has been made, the case should be referred to the Business Improvement Manager for write off.

In cases over £100.00 the escalation procedure should be followed.

6.4 Cases referred to a tracing agent

In all cases of £100-00 and over where there is no forwarding address the case should be referred to tracing agent. Cases where no forwarding address is available should be referred for write off as 'unable to trace'.

6.5 Monitoring former tenant repayment arrangement

FTA accounts with arrangements in place will be monitored by the Housing Assistants on a monthly basis with appropriate recovery action being taken.

6.6 Write ons

Occasionally there will be cases where South Lakes Housing (SLH) holds a credit but has no forwarding address to send it to. These cases should be referred to the Business Improvement Manager for write on.

6.7 Criteria for Cases to be Written Off

Tenant Deceased – a copy of the termination, death certificate as well as any information requested via the standard letter should be held on file. All 'Statutory Declaration forms' must be supported by a letter from the next of kin. In cases where a signed declaration cannot be obtained, approval for write off should be sought from the Business Improvement Manager. (Copy documentation should be sent with this request).

Tenant declared Bankrupt – official documentation must be received and kept on file.

Unable to trace – no forwarding address can be traced and all traces have been completed in accordance with the escalation procedure.

Uneconomical to pursue – if the amount owed is below £100.00 (estimated to be less than the cost of recovery).

All recovery action has been exhausted – incorporating cases returned by the tracing agent 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 an older person who is on full housing benefit cannot retain their tenancy and is moved into permanent care or hospital. A declaration form giving evidence of the facts should be completed by a care worker or nominated representative and held on file.

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

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 6 months.

6.8 Re-Instated Cases

If circumstances should occur that lead to a fresh opportunity to recover debt previously written off. The debt will not be written back onto the account until the debt has been satisfied.

6.9 The Small Claims Process

Cases where the debtor is in current employment and has an existing former tenant debit balance, and does not have a current possession order attached, are eligible for the small Claims process in the County Court. However it is considered to be uneconomical to commence county court action for any former tenant arrears with a value of less than £200.

Before commencing action a letter should be sent giving them 14 days notice to reply. If an acceptable offer of repayment is made it will be accepted and confirmed in writing. The Housing Assistant would then monitor this arrangement on a monthly basis.

If the debtor fails to respond or to make payments the Housing Assistant should discuss the case with their Senior Housing Officer before commencing the Small Claims Process.

The Small Claims Process should be submitted electronically using the money claim online (MCOL) internet service. The N1 application form must include the debtor's full name, date of birth, and postcode. The claim should not be below the value of £200 and should not exceed the value of £5000. Once the case is registered an allocation questionnaire will be sent for completion in order that the judge can decide on the most appropriate action. If the small claims track appears to be the most cost effective way form N149 will be sent. If the defendant disputes the claim in full or in part, a copy of the defendant's defence will be sent.

6.10 Attachment of Earnings Cases

Before considering this action the Housing Assistant should refer the case to their Senior Housing Officer.

In order to apply for an attachment of earnings SLH must have a current judgement order i.e. CCJ for the debt. The court will make enquiries as to the debtor's employment status and inform you accordingly, unless you can provide that information to the court. An initial request must be completed using form N337.

If the defendant is reluctant to provide employment details an 'Order to Obtain Information' N316 with the appropriate fee can be requested, which forces the Defendant to declare their income to the court. If an 'Order to Obtain Information' is served the same officer must sign the affidavit no later than seven days before questioning is due to take place.

7.0 Appeals Procedure

If a tenant is not satisfied with the decision to pursue a former tenant arrear, they have a right to appeal. Any appeal will be dealt with in accordance with SLH's Appeals Procedure for Customers.

8.0 Key Targets and Performance Indicators

- % of former tenant arrears recovered
- Value of former tenant arrears debt sent for write off per financial year.

9.0 Monitoring, Review and Consultation Process

It is the responsibility of Director of Operations to ensure that all relevant staff are aware of the Former Tenant Arrears Recovery Policy.

With tenants, SLH will review the effectiveness of this policy on a regular basis to ensure continuous improvement.

Policy Review Priority: Medium.

10.0 Equality and Diversity

SLH recognises that there is a broad range of visible and non-visible differences that characterise its tenants. Some of these qualities include race, religion, culture, nationality, ethnic background, colour, disability, sex, sexual orientation, age, literacy and income level. By understanding and respecting this diversity it is able to set a policy which ensures that all tenants are able to access services provided by SLH in an equitable manner.

SLH is committed to providing information and services equally and without discrimination so that they meet the needs of all sections of the community. These include our tenants, leaseholders and those living nearby or seeking access to or information on housing services in the South Lakeland area. In carrying out all housing management policies, SLHs Equality and Diversity Policy will be adhered to.