

Committee:	Executive	Agenda Item No.:	7.
Date:	7 th September 2009	Status	Open
Category	2. Decision within the functions of Executive		
Subject:	Former Tenants Arrears		
Report by:	Head of Housing		
Other Officers Involved	Head of Finance Head of HR and Payroll Housing Enforcement Manager		
Director	Chief Executive		
Relevant Portfolio Holder	Housing Management		

RELEVANT CORPORATE AIMS

CUSTOMER FOCUSED SERVICES – An increased collection rate for former tenants arrears would allow additional expenditure on other services.

STRATEGIC ORGANISATIONAL DEVELOPMENT – This report considers a new methodology to recover debt, and using specialist contractors.

TARGETS

Not directly, however previous audit reports have been critical of the recovery rate of former tenants arrears. It is proposed to introduce additional target to be reported to Executive to monitor the progress if this report is accepted.

VALUE FOR MONEY

This report is based on the principle that an investment in a temporary post to collect former tenant's arrears will be more than offset by an increase in collection rates, and demonstrate VfM. This will be monitored on a regular basis.

THE REPORT

In 2006 Council agreed to restructure the Housing Department. The allowed an additional focus on, amongst other issues, rent arrears.

Prior to the restructure rent arrears were increasing. Since the new posts were introduced rent arrears have started to reduce. They have reduced by

over £350,000 in real terms between September 2006 and April 2009. However, if the previous trend had continued current rent arrears would have been an estimated £1.5 million. Current rent arrears stood at £630,882 at the start of the financial year.

This success is due not only to additional staff resources but by developing and following a systematic and robust escalation procedure. This approach is more clearly understood by officers, and is beginning to impact on the culture of non-payment with some groups of tenants.

During this time, however, former tenant's arrears (FTAs) have increased. This is partially due to more success in recovering arrears from current tenants (i.e. if a person leaves or is evicted the debt becomes a former tenant arrear), but is also due to the lack of a structured debt recovery procedure. The responsibility for former tenants' arrears transferred to the Housing Department from Revenue Services in September 2007 with the rent administration function.

On 6th July 2009 the total rent owed by Former Tenants stood at almost £500,000 This is unacceptably high.

The Audit Commission view of the Council's use of resources was critical about the amount of debt owed by tenants, and whilst this has been partially addressed with action taken against current tenants, there remains an issue with FTAs.

There is currently no specific policy for Former Tenants Arrears. There is a need to introduce such a policy. This will ensure that officers have a clear understanding of what action to take in each case, and to provide members with some reassurance that all action has been taken, when they are asked to write off debts.

The proposed policy is enclosed as an appendix.

The proposed policy is much more proactive and ensures that appropriate action is taken in each case. This offers better control of FTA's and keep them at a more appropriate level; this should be through additional payments and not merely writing off debt. The policy includes the use of external debt recovery agencies and, when appropriate, the use a 'tracing agent' to find former tenants, and will consider the use of enforcement through the small claims court. The policy recognises the need to use specialists at some stages of the process.

The policy allows debts to be passed to an external recovery agency. Several of these exist which offer the Council an option for recovery, where there is a charge made only for debt recovered (i.e. no charge where there is no recovery). This is not the use of bailiffs,

The policy, and this new way of working follows good practice guidance from the Chartered Institute of Housing. The advantage of using external

specialists is that this methodology used elsewhere has brought in debt that had been deemed irrecoverable. There is no risk to the Council by adopting this approach.

In the short term this system will need additional support. Council on 11th August 2009 agreed to recruit one additional Rent Administrator for a period of 2 years with specific responsibility for dealing with FTAs and liaison with the contractors employed.

It is proposed to report each quarter to Executive on update of FTAs. This will include information on the debt and the success of recovery from both the Council and the agency.

ISSUES/OPTIONS FOR CONSIDERATION

The approach to be taken by the Council in dealing with FTAs, the proposed policy and the reporting of outcomes.

IMPLICATIONS

Financial: This report recommends an 'invest to save' scheme where the recruitment of a member of staff will contribute towards the recovery of up to £500,000.

Legal: None directly.

Human Resources: This report considers the appointment of one additional post on a temporary basis.

RECOMMENDATION(S)

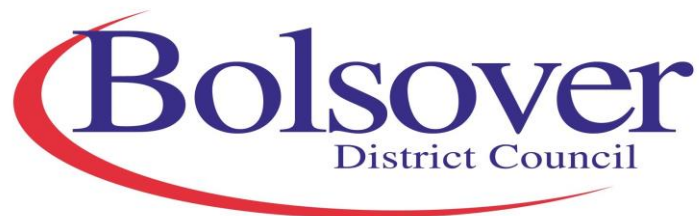
- 1. That the Draft former tenant's arrears policy is adopted.**
- 2. That the Head of Housing, together with the Head of Shared Procurement identify and appoint a contractor to recover debt on a commission only basis.**

REASON FOR DECISION TO BE GIVEN IN ACCORDANCE WITH THE CONSTITUTION

ATTACHMENTS: Yes
FILE REFERENCE: Draft FTA Policy
SOURCE DOCUMENT:

BOLSOVER DISTRICT COUNCIL

Former Tenants Arrears
2009



This Policy addresses the following Corporate Aims (show those which are appropriate to the policy only):



COMMUNITY
SAFETY



CUSTOMER
FOCUSED SERVICES



STRATEGIC ORGANISATIONAL
DEVELOPMENT



REGENERATION



SOCIAL INCLUSION

The District of Bolsover Equalities Statement

The District of Bolsover is committed to equalities as an employer and in all the services provided to all sections of the community.

□ The Council believes that no person should be treated unfairly and is committed to eliminate all forms of discrimination in compliance with the Equality Strategy.

□ The Council also has due regard to eliminate racial discrimination and to proactively promote equality of opportunity and good relations between persons of different racial groups when performing it's functions.

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If you need help to read this document please do not hesitate to contact us.

Our Equality and Diversity Officer can be contacted via [Email](#) or by telephoning 01246 242407.

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Details of Document	
Title	Former Tenants Arrears
Document type – i.e. draft or final version	Draft v2
Location of Policy	L:\housing\policies
Author of Policy	Peter Campbell
Reviewed by Director of Ops.	
Risk Assessment completed	Not applicable
Community Safety implications Please indicate any implications in relation to the Crime and Disorder Act 1998	Not applicable
Equality Impact Assessment completed.	29/9/2008
Approved by	
Date Approved	
Policy Review Date	

Version numbers

Draft v1 – First draft

Draft v2 – Updated to include other housing debt.

Draft v3 – Updated to include section on joint tenants.

CONTENTS

- 1. The Introduction**
- 2. The Scope of the Policy.**
- 3. The Principles of the Policy.**
- 4. Policy Statement**
- 5. Responsibility for implementing the Policy (and implementation plans where necessary).**

Introduction

This policy is concerned with how the Bolsover District Council will deal with rent debts from former tenants of council housing. This aims to offer clear guidance to officers, and a clear explanation to customers of what steps will be taken in different circumstances, the processes that will be followed, and where discretion can be used, and by whom.

Scope of the Policy.

This policy applies to former tenants of Bolsover District Council with housing debt, and in some cases the executors of former tenants Estates, and the Receivers for former tenants who are bankrupt.

This policy applies to Housing debt owed by former tenants. This includes not only rent but other charges, for example charges for damage to properties.

Principles of the policy.

Bolsover District Council relies on the collection of rent in order to run a high quality housing service. Any rent not collected is a loss of income and may impact on service delivery for all tenants.

Bolsover District Council believes that all tenants should ensure that rent is paid during the period of their tenancy. If a tenant leaves a property with debt the Council will use appropriate methods of debt recovery.

The Council recognises that debt recovery in serious cases, is a specialised service and will look to use specialist companies in serious arrears cases where the tenant has refused to engage with the Council.

The Council also recognises that debt can be an emotive and sensitive issue, and will attempt to deal with applicants, or their representatives appropriately. There will, however, be occasions where the Council will need to take a tough stance to recover debt.

Policy Statement

There are a range of reasons why a debt may be left on a property (this includes both rent and other housing debt)

a. **Tenants Leave Property** – this includes people who leave the property of their own choice as well as people who have been evicted from Council Property.

1. The council will not attempt to recover rent arrears of less than £5 as it is uneconomical to do so.

2. Debt up to £100. The tenant will be sent Letter 1 at the end of the Tenancy (see Appendix) – if there is no contact payment letter 2 will be sent one month later. The account will be monitored for three months. If there is no progress the account will be written off.

Debt up to £999 *. The tenant will be sent Letter 1 and 2, as above. However after the three month period the details will be sent to an external agency who will attempt to recover the debt (on a no fee, commission only basis). If there is no contact within a further 6 months the debt will be written off.

3. Debt over £1000 *. Initial stages same as the lower level. However, if the recovery agent has had not success within 6 months the Council will authorise a 'trace' for the tenant. (There is a fee for this service), before being referred back to the recovery agent for a further 6 month period. If this is not successful a report will be presented to Executive requesting Write Off.

Note: In all cases that are referred to the collection agency they may chose to keep the case live for a longer period of time. If they are eventually successful the Council will reverse any previous write off.

* It is proposed that these thresholds are introduced from the date of introduction of this policy. However these are maximums and may be decreased with the agreement of the Head of Housing and the Portfolio Holder for Housing. This applies to actions only and not the write-off procedure referred to in section g.

- b. **The Tenant has deceased** – note if someone succeeds to the tenancy any debt is passed onto the successor. Otherwise:
 1. If the debt is less than £5 the Council will not attempt to recover the debt.
 2. If the debt is less than five weeks full rent the Council will accept the declaration on the termination form that there are insufficient funds and the debt will be written off.
 3. If the debt is five weeks full rent or greater the Council will require written confirmation from the Executor that there is insufficient fund to pay the debt before considering write off. If this confirmation is not provided the Council will write to the executor to request this information and monitor the account for 6 months before writing off the debt.

Note: It is the executor of the estate who is responsible for the debt. No attempt will be made to recover money from the next of kin, (unless that person is also the Executor)
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In cases where the Council are notified that a tenant has passed away, but there is no executor or family to end the tenancy, the Council will end the tenancy by serving Notice on the Office of the Public Trustee.

Note: In all cases where a tenant has deceased it is a condition of tenancy that the Council is given 4 full weeks notice by the executor or family member before ending the tenancy

c. The tenant has moved to residential care.

No recovery action will be taken for people with debt of less than £5.

For all cases over £5 an investigation will be carried out. There can be no blanket policy to deal with such situations, and each case will be considered on its merits by the Housing Enforcement Manager.

d. Bankruptcy

If a former tenant has been declared bankrupt, and the rent arrears or debt included as part of their bankruptcy these are irrecoverable and should be written off. In cases of over £100 the write off will be considered with appropriate proof from the former tenant or their receiver. The write off will only apply to the amount of debt included in the bankruptcy.

e. Exceptional cases.

In exceptional cases the Council may create a former tenant arrear, for example by rehousing a person with rent arrears or debt who is a victim of Domestic Violence. In such cases the Housing Enforcement Manager together with the Head of Housing will consider suitable options to recover the debt.

f. Joint Tenants

Where a tenancy was held jointly, then each tenant is jointly and severally liable for the whole of the debt.

The Council may agree, at its discretion, to accept an arrangement to collect the whole of the debt from one of the joint tenants, or, to accept an arrangement to apportion the debt repayments between the former tenants. The Council is not obliged to enter into such arrangements and, if it does so, it will not be prevented from pursuing each or all of the tenants for the whole of the debt in the event of default or at any other time. This will be made clear to joint tenants when any such arrangements are being considered

g. Dealing with Write Offs

Write offs of less than £100 will be submitted as a schedule to the Director of Resources.

Detailed information will be submitted for write offs up to £1000 to the Director of Resources.

Write Offs of over £1000 must be agreed by Executive.

In all cases write off may be reversed if the former tenant reappears, within the limitation period, and appropriate action will be started.

Notes:

When appropriate the Council will encourage former tenants to seek independent advice if they need specialist advice.

Responsibility for implementation:

Head of Housing