

Neighbourhood Management

# Former tenant arrears policy

October 2024 – October 2029



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

# 1 CONTENTS

1	CONTENTS.....	2
2	Introduction .....	3
3	Related Documents .....	3
4	Legal and Regulatory Context.....	3
5	Policy Statement .....	4
6	Prevention of Former Tenant Arrears .....	5
7	Writing Off Debts.....	5
8	Reporting .....	6
9	Records Management.....	6
10	Equalities Statement.....	7
11	GDPR and Data Protection Act 2018 .....	7
12	Compliance, Monitoring and Review.....	8
13	Version Control .....	8

## **2 Introduction**

- 2.1 This policy sets out how The Royal Borough of Kensington and Chelsea (RBKC) Housing Management Service aims to collect and manage all former tenant accounts in arrears.
- 2.2 Former Tenant Arrears (FTA) refer to rent arrears left by a tenant on their current rent charge account, whose tenancy has ended and who no longer lives in the home. When the tenant leaves the property, the 'current tenant account' will become a 'former tenant account'.
- 2.3 The overall purpose of the Former Tenant Arrears policy is to:
  - Ensure RBKC maximises rental income
  - Reduce former tenant arrears by tracing and contacting former tenants and planning to pay off their debts
  - Ensure the arrears recovery process is cost effective by considering the appropriate level of recovery action for the owed amount and the likelihood of successful debt recovery
  - Ensure that uneconomical and irrecoverable debts are written off according to best practice
  - Ensure that the Sundry Debts Officers and all staff involved with the collection of former tenant arrears are committed to reducing the overall debt of RBKC
  - Ensure effective performance management for former tenant arrear cases.
- 2.4 This policy establishes an effective, accountable and transparent framework for managing all former tenant accounts in debt or credit and ensures compliance with the Housing Act 2004.

## **3 Related Documents**

- 3.1 The policies, procedures and documents related to the Former Tenant Arrears Policy are:
  - Former Tenant Arrears Procedure
  - Rent Income and Arrears Procedure
  - Rent Income and Arrears Policy
  - Hostels Income Management Procedure
  - RBKC Housing Management Tenancy Agreement
  - RBKC Licence Agreement

## **4 Legal and Regulatory Context**

- 4.1 This policy is in line with the following legislation:
  - The Local Government Act 1974
  - The Regulatory Reform Order 2007
  - The Housing Act 1985 (as amended by the Housing Act 1996 and Housing Act 2004)
  - Landlord and Tenant Act 1987
  - Local Government and Housing Act 1989
  - Equality Act 2010
  - Data Protection Act 2018

4.2 Any changes in legislation or best practices will be adhered to and included in future versions of this policy.

4.3 Under the 'Conditions of Tenancy' stated in the RBKC Housing Management Tenancy Agreement, it states under Clause 5, the Tenant's responsibilities:

*The tenant will pay the rent and any other charges due under the terms of this agreement every week in advance. Any other charges or payments arising from legal proceedings in connection with this agreement will be deemed to be rent due in connection with this tenancy and may be added to the rent account for the property.*

4.4 Under the Limitation Act 1980, if RBKC Housing Management allows time to pass without receiving any payment or written agreement that debt is owed, an action for recovery may become barred. If RBKC Housing Management fails to maintain contact with the former tenant for 6 years or more, the debt will be "statute barred".

4.5 Under the Charging Orders Act 1979, if a former tenant has bought or goes on to buy a property, RBKC Housing Management can apply for an order of the court placing a 'charge' on the former tenant's new property for the amount owed.

## **5 Policy Statement**

5.1 The scope of this policy applies to:

- RBKC Housing Management employees
- Current and former RBKC Housing Management Council tenants who have a Secure Tenancy, Flexible Tenancy, Licence Agreement or Non-Secure Tenancy
- Partners who will assist RBKC Housing Management with former tenant arrears

5.2 The collection of former tenant arrears 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 proactively collect FTAs, using a range of methods in a flexible, fair and consistent way.

5.3 RBKC Housing Management is committed to co-operating and collaborating with partners and agencies helping with the assistance of all former tenant arrears and credit cases.

5.4 The Sundry Debts Officers will ensure all former tenant accounts are managed cost-effectively, involving the use of tracing services when required.

5.5 The Sundry Debts Officers will seek to obtain a forwarding address in respect of all former tenant arrear cases. Where an address is not provided, RBKC Housing Management will use local searches through Civica and national searches through RBKC's Corporate Anti-Fraud Service (CAFS) to identify, trace and obtain a forwarding address for the former tenant.

5.6 RBKC Housing Management will write off debts only after the Sundry Debts Officers have exhausted and taken all reasonable steps outlined in the Former Tenant Arrears Procedure.

- 5.7 RBKC Housing Management will ensure write-offs are signed off proactively and promptly in line with key performance monitoring indicators.
- 5.8 RBKC Housing Management will resort to legal proceedings if the Sundry Debts Officers have exhausted all options in the procedure and either one of the following has become known:
- The former tenant does not pay their arrears and owns a property, or their name is against any deeds.
  - The former tenant does not pay their arrears and they are working.
  - There is proof that money is on the Estate yet there has been no payment from the Executor to clear the arrears.

## **6 Prevention of Former Tenant Arrears**

- 6.1 RBKC Housing Management is focused on preventing FTAs where possible. When the tenant is still living in their property, the Rent Income Officers will work with them to try and prevent them from falling into arrears. This is in line with the Rent Income and Arrears Policy and Procedure.
- 6.2 Rent Income Officers will ensure they make all tenants aware of their responsibilities as tenants by regularly paying their rent and payable service charges at the start of the tenancy. This includes adhering to the tenant's responsibilities outlined in the Tenancy Agreement.
- 6.3 Rent Income Officers will encourage tenants to inform RBKC Housing Management of any change in circumstances or changes that may affect their Housing Benefit entitlement and the likelihood of them missing a future repayment.
- 6.4 The Council recognises that vulnerable tenants may require additional support when falling into arrears. Rent Income Officers will support tenants by signposting and advising them of different services within the Council or elsewhere in the borough by including advice centres in all arrears letters or directly engaging with the tenant in person or over the phone.
- 6.5 Rent Income Officers will actively ensure tenants clear their arrears if the tenancy is relinquished.
- 6.6 RBKC Housing Management will ensure former tenant arrears are prevented by utilising cross departmental work on Housing Management systems and completing detailed and comprehensive checks and investigations before any tenancy ends.

## **7 Writing Off Debts**

- 7.1 When the debt is considered irrecoverable or uneconomical to pursue, the most appropriate solution is to write off the debt.
- 7.2 Debts must be written off if they fall under any of the following criteria:
- Where debts are deemed uneconomical to pursue
  - Where debts are irrecoverable once all attempts have been exhausted

- Where the former tenant is deceased and the debt is irrecoverable
- Where the former tenant is deceased and there is no estate
- Where the former tenant is serving a prison sentence upwards of 24 months
- When the debt is statute barred

7.3 Reinstatement of debts written off will be possible if the whereabouts of a former tenant are obtained and verified before the debt becomes statute barred.

7.4 Cases being considered for 'write-off' will be signed off locally by the Head of Income and Financial Inclusion and then passed to one of the following senior staff/bodies for final authorisation, as per below.

<b>Amount of debt to be written off</b>	<b>Position of Authority</b>
Up to £9,999	Executive Director and Group Finance Manager
£10,000 to £99,999	Executive Director and Directors of Housing Management, Finance & Law
£100,000 to £249,999	Cabinet Members
£250,000+	Full Cabinet

## **8 Reporting**

8.1 The Sundry Debts Officers are responsible for ensuring the correct procedure is followed for the recovery of former tenant arrears. Their responsibilities are:

- Monitoring former tenants' rent accounts and taking prompt action to reduce former tenant arrears.
- Maximising former tenant arrears recovery in line with key performance targets.
- Maintaining and using the Housing IT system to keep track of debts, payment plans and acting on new cases.
- Attending Court for former tenant arrears cases.
- Submitting cases for write-off once all appropriate attempts to recover the debt have been exhausted.

## **9 Records Management**

9.1 The Sundry Debts Officers will store and maintain all records of contact with former tenants by storing all information through our in-house Customer Relationship Management system (CRM).

## 10 Equalities Statement

The Council is committed to promoting fair and equal access to services and equal opportunities in employment, the procurement of goods and as a community leader. The Council's policies, procedures and day to day practices have been established to promote an environment which is free from unlawful and unfair discrimination while valuing the diversity of all people.

Discrimination on the grounds of race, nationality, ethnic origin, religion or belief, gender, marital status, sexuality, disability and age is not acceptable: the Council will take action to ensure no person using the Council's premises or services receives less favourable treatment or is disadvantaged by requirements or conditions that cannot be justified. The Council will tackle inequality, treat all people with dignity and respect and continue to work to improve services for all service users.

The legal framework for the Council's approach is provided by the Equality Act 2010 and specifically by the Public Sector Equality Duty, under which a public authority must work consciously to eliminate discrimination, harassment, and victimisation and to advance equality of opportunity and foster good relations between people with differing characteristics.

Further detail on the Duty, and the Council's approach to fulfilling its requirements, can be found at [www.rbkc.gov.uk](http://www.rbkc.gov.uk).

## 11 GDPR and Data Protection Act 2018

As a directorate of RBKC, Housing Management shares the commitment to ensure that all data is:

- processed lawfully, fairly and in a transparent manner
- collected for a specific and legitimate purpose and not used for anything other than this stated purpose, or as provided for in our privacy and fair processing notices
- relevant and limited to whatever the requirements are for which the data is processed
- accurate, and where necessary, kept up to date. Any identified inaccuracies will be amended or removed without undue delay
- stored for as long as required, as specified within RBKC's Records Retention policy
- secured with appropriate solutions, which protect the data against unauthorised or unlawful processing and accidental loss, destruction or damage.

For further information about the Council's commitment to the General Data Protection Regulations (GDPR), visit the Council's website at [www.rbkc.gov.uk](http://www.rbkc.gov.uk).

## 12 Compliance, Monitoring and Review

12.1 This policy will be reviewed in conjunction with the procedure every 5 years, or when legislative or regulatory changes take place that could affect it. The next review will take place by:

October 2029

## 13 Version Control

Version	Purpose	Author	Date
1		Rhys Birdy	01 2020
2	Review and Update	Aggie Maresh	09.10.2024