

Former Tenant Arrears Policy



Reference: HS_POL_HOU_FTA_3 **Author:** Head of Income & Tenancy Sustainment

Scope: Housing Solutions **Approved by:** Executive Team

Legislation: **Limitation Act 1980**
Data Protection Act
And GDPR 2018
Housing Act 1985
County Court Act 1984
The Regulatory Standards **Date of approval:** March 2024

Regulatory/ Civil Procedure Rules **Date of next review:** March 2027
Governance: Pre-action protocol

Related Current Tenant Arrears policy
Policies: Recharge policy
Allocations policy
Mutual Exchange policy
Tenancy Policy

1. Policy Statement

- 1.1 As a social landlord, Housing Solutions must minimise its 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 Housing Solutions considers that its approach towards recovering former tenant debt contributes to this and delivers a message to current tenants that we will work to recover outstanding former debts.
- 1.3 In line with Housing Solutions Current Arrears Policy, our customers are expected to take responsibility for fulfilling the terms of their agreement, which includes managing payments to meet their rental obligations
- 1.4 This policy applies to all former residents who lived in homes Housing Solutions owns or manages, including general needs, intermediate or market rent, mobile home pitches, garages, parking bays, shared ownership, supported and sheltered accommodation. For leaseholders, refer to the Leasehold Management Policy and Service Charge Policy.
- 1.5 A former tenant is one who no longer rents a property from Housing Solutions (including deceased tenants)
- 1.6 A former tenant debt is defined for the purpose of this policy, as a debt of unpaid rent/ charges which remains on an account, after a tenancy has been terminated

- 1.7 A former tenant credit is a surplus amount remaining on an account once the tenancy has ended
- 1.8 Former tenant debt includes but is not limited to:
- Arrears of rent or service charges
 - Unpaid garage / parking bay charges
 - Unpaid utility charges
 - Legal costs following court action.
 - Recharges to make good unauthorised alterations, make good or repair damage to the property, charges for missed appointments and rechargeable void costs.
- 1.9 This policy aims to outline how we will:
- Take a consistent, fair, measurable and effective approach to recover former tenant debt and refund former tenant credits.
 - Maximise income for Housing Solutions
 - Have adequate payment methods available for repaying the debt
 - Identify circumstances which may affect former tenants ability to pay and / or their ability to understand the implications of non- payment
 - Collaborate with external agencies or organisations representing our former tenants where necessary
 - Write off debts that are uneconomical to recover in line with delegated authorities
 - Produce accurate reports for account monitoring and ensure staff have a good understanding of how to follow the procedure to recover former arrears
 - Comply with all relevant legislation

2. Roles and Responsibilities

Board	Supports the organisation in the fair and consistent application of this policy.
Executive Team	Responsible for approving this policy and any amendments which may be needed from time to time. Responsible for recommending the strategic direction of the policy that feeds into the operational delivery for residents.
Chief Executive / Director of Finance	Responsible for authorising write off of former tenant arrears, credits of rent and rechargeable repairs over £5K
Director	As above up to £5K
AD Housing & Resident Services/ Head of Income & Tenancy Sustainment	As above up to £2K Responsible for overseeing the contract with collection agent. Responsible for identifying and ensuring appropriate training on the

	application of this policy and ensuring best practice.
Financial Operations Manager	Responsible for processing the former tenant debit and credit write off. Allocates payments from external collection agents.
Income Team Leader	Responsible for overall operational delivery and day-to-day management of the team's services for all former tenant accounts
Income Officer	Responsible for the day-to-day management of former tenant accounts
Welfare Benefit Team	To provide any advice and signpost to support agencies where required. To ensure that any overpaid benefits on former accounts are refunded to DWP or Local Authority
HR	Responsible for supporting the provision of appropriate external training

3. Our Approach

Prevention

- 3.1 Housing Solutions staff will work in line with the Allocations Policy ensuring that any prospective tenant meets the affordability criteria following a financial assessment.
- 3.2 Housing Solutions has the right to reject nominations for any former customers with rent arrears, in line with the Allocation Policy. This also applies to internal transfers and mutual exchanges.
- 3.3 Housing Solutions will ask for a week / month's payment in advance at the start of tenancy in line with the Tenancy Agreement and will work with partner organisations to establish this payment for our more vulnerable tenants. (Weekly payers to pay a week in advance and monthly payers to pay a month in advance to ensure account does not fall into arrears at any point during their tenancy)
- 3.4 The Income Team will work in line with the Current Tenants Arrears Policy and Procedure with the support of the Welfare and Benefit Team to promote tenancy sustainment and reduce the potential for former tenant arrears.

Recovery of debt

- 3.5 We will review the former accounts within two weeks of termination to establish any:
 - Benefit overpayments which must be repaid
 - Benefit due to reduce the balance
 - Other charges outstanding (void recharges)
 - Deposits held in any other account
- 3.6 We will request payment in full on an account where the customer has given notice, if due to their circumstances they are unable to do this a repayment plan will be agreed
- 3.7 We will obtain a forwarding address and contact number prior to end of every tenancy and where we have ended the tenancy through enforcement action we will make attempts to obtain that information
- 3.8 We will contact former tenants with a debt within four weeks of the termination of the tenancy if they have not made any repayments or agreed a repayment plan
- 3.9 We will follow the Former Tenant Arrears Procedure and adhere to civil procedure

rules

- 3.10 A management move of a tenant in arrears (due to extreme circumstances such as serious ASB or domestic violence) will have an agreement in writing confirming the repayment of the debt
- 3.11 When appropriate we will make applications to the Small Claims Court to recover an outstanding debt.
- 3.11 Where attempts to recover a former debt in house have been exhausted the debt should be referred to a debt collection agency appointed by Housing Solutions. Housing Solutions will only appoint a FCA regulated debt agency.
- 3.12 Where a tenant has passed away leaving an outstanding debt we will contact next of kin, if known, and follow the Former Tenant Arrears Procedure
- 3.13 Housing Solutions does not use distraint as a tool for collecting arrears or condone its use

Debt for write off

- 3.14 We will consider a debt for write off once all reasonable actions have been taken in line with the procedure. A former tenant debt where payments are being made should not be written off unless payments cease and the recovery procedure has been exhausted
- 3.15 Where recovery of a debt is considered unlikely or not cost effective it will be written off
- 3.16 When an external agency advises that the debt is irrecoverable and/or the former tenant cannot be traced, the debt should be written off
- 3.17 Write off will be documented using the Former Tenant write-off form
- 3.18 Authorisation levels for write-offs will be in line with Housing Solutions Standing Orders
- 3.19 Where a debt has been written off and the former tenant has been traced within a six year period of the write off, the debt can be reinstated

Overpayments

- 3.20 We will make reasonable efforts to ensure that any credit remaining on an account is returned to the former tenant after ensuring there are no recoverable benefit overpayments
- 3.21 A former tenant will be entitled to the repayment of a credit on their former account within six years of the tenancy end
- 3.22 Housing Solutions may “write on” any credit older than six years following attempts to repay the former tenant
- 3.23 Authorisation levels for “writing on” will be as per 3.18

4. Legislation

Housing Solutions will ensure compliance with the legislation and guidance set out on Page 1 of this policy. We will also stay up to date with any changes in legislation, guidance and best practice.

5. Consumer Standards

By publishing and adhering to this policy, Housing Solutions upholds the requirements set out in the Consumer Standards published by the Regulator of Social Housing.

6. Equality and Diversity

Housing Solutions recognises the needs of a diverse population and always acts within the scope of its own Equality, Diversity & Inclusion Strategy and Policy, the Human Rights Act 1998, and Equalities Act 2010 to treat all tenants and prospective tenants fairly and equally in making decisions under this policy. Housing Solutions works closely with its partners to understand its resident community, with clear and regularly updated service user profiles. Housing Solutions will record, analyse and monitor information on ethnicity, vulnerability and disability.

7. Confidentiality

7.1 Under the Data Protection Act 2018 and UK General Data Protection Regulation (GDPR), all personal and sensitive information, however it is received, is treated as confidential. This includes:

- Anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff or board member.
- Sensitive organisational information.

7.2 Housing Solutions' employees will only involve other agencies and share information allowed either by statute or by an agreed Information Sharing Protocol relevant to this policy.

8. Review

- 8.1 This policy will usually be reviewed every three years, or more often in response to changes in legislation, regulatory guidance, good practice or changes in other relevant Housing Solutions policy.
- 8.2 We will monitor our performance in relation to the delivery of the services and activities set out in this policy on an ongoing basis via our established reporting mechanisms to our Executive Team, Board and associated committees.