

Housing – Former Tenant Arrears Framework

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**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

**Housing – Former Tenant Arrears Framework**

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**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

**Housing – Former Tenant Arrears Framework**

**1.0 Introduction**

Rotherham Metropolitan Borough Council recognise how important it is to collect rent in all forms, alongside the collection of service charges, garage rents, former tenant arrears and leaseholder charges. It is imperative to the continuation of the housing management function.

It is recognised that there is a direct relationship between effective collection and the ability to deliver a high-quality service to customers. Rotherham Metropolitan Borough Council’s Former Tenant Rent Arrears process is designed to reflect a desire to provide an excellent service, to be fair, equitable and sympathetic, and to support vulnerable people, while at the same time balancing this with the need to maximise revenue by recovering rent that is due, to safeguard the provision of services.

This framework sets out guidance for an efficient and effective approach to income collection that complies with legislative requirements and wider corporate objectives.

**2.0 Purpose**

The aims of the Housing Income and Support Services team are centred on the main corporate vision and one Council approach:

* Every child able to fulfil their potential.
* People are safe, health and live well.
* Every neighbourhood thriving.
* Extending economic opportunity.
* A cleaner, greener local environment.

The team serves a wide-ranging purpose that focuses not only on collection of income, but also instilling support for those with vulnerabilities through our Financial Inclusion team, whilst creating the opportunity of employment through our Employment Solutions team.

The service provision delivers a joined-up approach that looks to communicate effectively and coherently with customers and third parties at all stages to ensure we support our customers and provide added value to them.

The Housing Income and Support Services team aim to:

* Deliver an efficient, effective, and consistent approach to income management and debt recovery.
* Adopt a ‘firm but fair’ approach that reflects a commitment to prevention, support, and recovery.
* Ensure customers have access to appropriate support to maximise their income, receive welfare benefits advice and referrals to other appropriate partners.
* Be respectful, inclusive, and clear in our communications with customers.
* Provide an accessible and accountable income management service provision.
* Ensure a value for money approach is embedded.
* Ensure staff are aware of the framework and understand its aims.
* Offer a strong tenancy support and financial inclusion service that looks to understand what the barriers are for customers and households to help directly and signpost appropriately for further and specialist support.

The overall purpose of this Framework is to maximise recovery and as such reduce bad debt provision. This in turn should improve the financial position of the Housing Revenue Account (HRA) and associated Business Plan. This will ensure Rotherham Metropolitan Borough Council manage Former Tenant Arrears (FTA’s) consistently and prevent ‘bad debt’ remaining on accounts for sustained periods.

**3.0 Scope**

The collection of all income due under the Housing Revenue Account is imperative to enable the delivery of all aspects of housing management and support wider corporate aims and objectives.

All the rent and service charge income collected from all ‘former properties are reinvested within the housing management function of the Council and covers the costs of the management, planned maintenance and responsive repairs, as well as supporting wider corporate aims such as new Council house building programmes.

This framework applies to officers within the Adult Care, Housing and Public Health directorate working within the Housing Service. This may also apply to Rotherham Metropolitan Borough Council officers who deal with matters that may relate to rent and/ or former tenant arrears.

The process relates to all former rental charges, service charges and sundry debts to Rotherham Metropolitan Borough Council owned residential properties, garages, and parking space.

**4.0 The Process**

**4.1 Initial Action**

Upon the termination of the tenancy, the Technical Support Officer within the Housing Property Services Team will inform the Former Tenant Arrears (FTA) Administrator of the terminations on a weekly basis. The FTA administrator will follow the process to action terminated tenancies within seven days of the tenancy terminating by:

* Attempting to contact via telephone, text, and email at each escalation stage.
* Then sending a ‘first contact letter’ to the former tenant (if the forwarding address is known) or next of kin/ executor with a closing balance for the account.
* Approximately fourteen days after sending the initial letter, a follow up will be carried out in the form of a telephone call.
* No contact will ensure a ‘second contact letter’ is issued.
* Failure to respond to the second letter within approximately seven days after issue, the account will be referred to a debt collection agency for further action.
* Where there is no forwarding address a process of tracing will be undertaken. However, where contact is made, an arrangement will be made for repayment.
* Caseloads will be prioritised using RentSense analytics to prioritise high risk accounts first utilising software available rather than an untargeted approach.

**4.2 Arrangements**

Where a former tenant or executor contacts the FTA Administrator in line with correspondence received, the FTA Administrator will:

* Agree a repayment arrangement which is within the debtor's means, with all forthcoming detail logged on the appropriate Housing management system.
* A written arrangement letter will then be sent to the forwarding address to confirm the arrangement made if requested, otherwise confirmation will be sent via email/ text message.

**4.3 Tracing**

The Council will look to carry out a ‘tracing’ exercise that will take place on all former tenant accounts. This is undertaken using facilities available to the FTA administrator, those being and not limited to Council Tax and Housing Benefit accounts. To ensure accurate identification of former tenant details when undertaking tracing searches on other systems, the FTA administrator will match three independent pieces of information, for example name, date of birth and national insurance number.

**4.4 Write Offs**

4.4.1. When the Council is looking at writing off debt this will be checked by the Specialist Income Recovery and Court Coordinator and then sent to the Chief Finance Officer. The debt amounts are then referred to the Income Recovery Assistant to action writing off the debt from the former tenant account. The criteria for writing off debt will be based on the following thresholds.

4.4.2. Where the initial former tenant arrears are equal to or less than £20.00.

The FTA administrator will initially attempt to secure payment via a telephone call within 14 days of the tenancy being terminated. Should no contact be gained, the debt will be written off by Rotherham Metropolitan Borough Council due to the debt being uneconomical to recover. The FTA administrator will complete a record in the write off spreadsheet which is approved in two stages to provide an extra layer of auditing, initially sent to Area Income Recovery Co-ordinator for checking then sent onto the Specialist Income Recovery and Court Coordinator for final approval. The write off document is a Microsoft Excel spreadsheet where the details of each account that require authorisation for write off are logged. All files will be saved in a central location for audit or scrutiny purposes.

4.4.3. Where the debt is more than £20.00 but less than £1,000.00, and there have been no responses or payments made after letters, calls, debt collection agency’s contact attempts and there is no money judgment order on account, within a twelve-month period from the date of termination the debt. This debt will be written off by Rotherham Metropolitan Borough Council due to the debt being uneconomical to recover. The Former Tenant Arrears Recovery Administrator will then add this debt to the write off Excel spreadsheet (as set out in paragraph 4.4.2 above).

4.4.4. The Specialist Income Recovery and Court Coordinator will generate a report which identifies cases that have been referred from the debt collection agency. The accounts identified will then be referred for write off within four weeks of return; unless the FTA administrator notes that a money judgment order is on file.

4.4.5. If no forwarding address is provided and tracing searches have been unsuccessful, the FTA administrator will complete a record in the write off Excel spreadsheet which is checked by the Specialist Income Recovery and Court Coordinator prior to being authorised.

4.4.6. Where a tenant has sadly passed away leaving no estate from which to recover the arrears, the debt will be written off. If there has been no contact with a deceased’s estate within three months, the estate will be deemed to have already been distributed and as such these debts will be written off under a “deceased tenant write off code” and recorded in the write off Excel spreadsheet.

4.4.7. Where a debt is statue barred by the Limitation Act 1980 the debt will be written off within six months of the sixth-year anniversary of the termination date.

4.4.8. Where the tenant:

I. Will be in prison for two years or more,

II. Is bankrupt

III. Has no assets and no income

IV. Has former tenant arrears owed to Rotherham Metropolitan Borough Council that are over two years old and no payments have been received in the previous twelve months,

the debt will be written off as being uneconomical to recover.

4.4.9. Bankruptcy and Debt Relief Orders

Where the Council receive official notification that a customer has been declared bankrupt any debt that is declared will be written off.

Where the Council receive official notification, a customer has entered a Debt Relief Order (DRO), any arrears owed at the time the DRO is granted will be written off.

4.4.10. Breathing Space

The Government launched the Breathing Space scheme on 4th May 2021. The scheme allows residents in England and Wales seeking debt advice a 60-day pause on interest, fees, and enforcement action. In relation to rental debt, a tenant must not be pursued for the outstanding balance for the duration of the Breathing Space.

A robust process is in place to ensure that tenants whose rental debt has been entered into a Breathing Space scheme have a clear identifier on the account, stating the beginning and end of the scheme. A separate record is kept for all RMBC tenants who have been entered into the scheme, with information such as name, address, outstanding balance, the dates of scheme collated and as such regularly monitored.

4.4.11. The debt may be recommended for write off by the managing department based on the merits of recoverable action and/or vulnerabilities of the tenant. The Specialist Income Recovery and Court Coordinator will refer the matter on to the Housing Income Manager who will then agree to the debt being referred for write off. The debt will then be input onto the write off Excel spreadsheet.

4.4.12. Where the debt is between £1000.00 and £5000.00 and there is little or no possibility of successful recovery action through the courts, the FTA administrator will collate evidence of contact attempts, income details and any other mitigating factors to substantiate that position. The relevant account will then be referred to the Specialist Income Recovery and Court Coordinator for approval to refer the matter to be written off by the Chief Financial Officer, within 12 months of the date of termination. These cases will be matters such as where tracing has failed to find a forwarding address. The head of Housing Income and Support Services and the Assistant Director for Housing will be informed of the position of the cases where arrears are more than £1,000.00.

4.4.13. For cases where arrears are more than £5,000.00 the FTA administrator will refer the account on a six-monthly basis to the Specialist Income Recovery and Court Coordinator for permission to request authorisation to write off the debt, with details of action taken and summary of the individual case. Where necessary any requests for writing off debt will be referred to the Chief Finance Officer for authorisation.

4.4.14. The authority for all write offs irrespective of value will be provided in the form of an Officer Decision Record with a confidential appendix detailing all accounts. This will be prepared by the Area Income Recovery Coordinator and submitted to the Specialist Income Recovery and Court Coordinator and the Housing Income Manager for initial approval. This is then sent to the finance business partner for quality checking before write offs are actioned on the specified accounts. The file is then sent for final approval by the Cabinet Member for finance and any unauthorised write offs are to be reversed.

4.4.15. All debt written off, will be written back on to the rent account should contact be gained in the future. When writing debt off, £0.01 will be left on account so that these accounts are easily identifiable to other departments within the Council.

4.4.14. This Framework should be read alongside the Corporate Debt Policy.

**4.5 Court Action**

Where the address of a former tenant is known, all other attempts to recover the arrears have failed and the amount of the debt is substantial (for example more than £300.00), the FTA Administrator will initiate action to pursue recovery of the debt through court action if prospects are deemed to be reasonable. If the former tenant arrears are substantial and it is believed that the former tenant has the ability to pay, consideration will be given to seeking an Attachment of Earnings Order, or in some cases, after careful consideration by the Specialist Income Recovery and Court Coordinator, approval will be sought for authorisation from the Head of Housing Income and Support Services, for seeking an order for the seizure of goods by distress to recover the debt.

When determining whether the former tenant can pay, consideration will be given to whether they are employed or have assets of value. The consideration will be undertaken by the Specialist Income Recovery and Court Coordinator on a ‘case-by-case’ basis and establishing the merits of the same.

**4.6 Auditing**

The internal audit team will ensure the Housing Income and Support Services team are held accountable for any decisions, practices, and performance. This will include a comprehensive auditing report being compiled annually that looks at all aspects of the team and is then rated on a scale of substantial assurance to none, with a list of recommendations if necessary.

**4.7 Refunds**

Where a customer has a credit on their rent account the Council use an automatic process called ‘Credit Spreading’ to distribute the credit to other associated accounts that may be in debt. Other associated accounts could be court costs, garage rent or tenants contents insurance. When the other accounts are paid in full, money left over will remain as credit on the current main rent account.

Credit is used to pay off debts in the following order:

* Main current account
* Current garage / garage site account
* Current Insurance
* Current court costs
* Former tenancy arrears - Debts will be cleared from the oldest former tenancy first through to the most recent, in the following order:
* Main Former tenancy Account
* Former garage / garage site
* Former Insurance
* Former Court Costs

Where other debts are owed to the Council the credit will be used to pay that debt and any remaining balance will be refunded to the customer.

We aim to refund within 14 days of receipt. Refund requests must be submitted via the Housing Income Support team in various methods which include online and via the Housing management system. Refunds can be issued by bank transfer, cheque or to the card by which the payment was made.

**5.0 Performance**

The collection performance target is set in accordance with Housemark definitions. All other targets have been agreed by senior management within the income and the Council’s performance team.

The financial year 2022/23 was the first-time specific targets were set for the team and were based on the previous year’s performance with due regard for upcoming challenges, in particular welfare reform, cost of living issues and resource capacity. This continues to be the case through 2024/25.

The performance is reported to senior management within the income team and subject to regular reviews and audits. Quarterly and annual benchmarking of performance is undertaken through Housemark, with the same conducted via a Northern benchmarking group to evidence progression against local and national piers.

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| **Performance Indicator** | **Indicator Description** | **Target 2023/24** | **Outturn 2023/24** | **Target 2024/25** |
| **FTA1** | Number of FTA accounts outstanding | 4422 | 4246 | 4246 |
| **FTA2** | Number of FTA accounts - value (excluding prepayments) | £3,244,582.74 | £2,959,388.29 | £2,959,388.29 |
| **FTA3** | Number of FTA accounts movement (in month - new terms/debits or credits applied) | N/A | N/A | N/A |
| **FTA4** | Former rent collected as a % of rent due (excluding arrears brought forward) | 88.28% | 46.12% | 42.79% |
| **FTA5** | % of caseload over £800 | 21.42% | 24.30% | 20.00% |

**6.0 Roles and Responsibilities**

The Assistant Director of Housing is accountable for the framework with the overall responsibility for the implementation and maintaining records of all debts to be authorised for write off sitting with the Specialist Income Recovery Team. All requests for authorisation of write off must be submitted to the Chief Finance Officer for authorisation. The Chief Finance Officer will ensure the debts are written off in accordance with the Financial and Procurement Procedure Rules. The Housing Income Manager and Specialist Income Recovery and Court Coordinator are responsible for the operational delivery of this framework, alongside the associated processes, and has the responsibility for ensuring compliance with regulatory and legislative requirements.

The Councils finance managers or their teams should ensure they play an active role in the write off process to ensure all loss of income is reflected in the appropriate budgets and accounts, where appropriate, then reported to the Service Assistant Director or Strategic Director. It is for the Service to decide the level or stage at which debts written off are reported to the Assistant Director or Strategic Director.

Debts to be written off must be authorised by the Chief Finance Officer in accordance with the Councils Financial Regulations. Write Offs will be passed for authorisation monthly.

**7.0 Monitoring, Reviewing and Evaluation**

The Housing Income Manager will monitor FTA cases with reference to the amounts to ensure that all relevant and appropriate processes have been followed and to ensure the timeliness of cases progressing.

The effectiveness of this Framework is reported upon monthly with the key performance indicators overseen by the Head of Service. The effectiveness of this Framework will be reviewed at 12 monthly intervals to ensure best practice is always delivered.

**8.0 Legislation and Guidance**

* Housing Act 1985
* Protection from Eviction Act 1977
* Landlord and Tenant Act 1987
* Civil Procedure Rules 1998
* County Court Act 1984
* Human Rights Act 1998
* Equalities Act 2010
* The Limitation Act 1980
* General Data Protection Regulation 2016
* Any additional supplementary Legislation and guidance

**9.0 Framework Control Statement**

The Head of Housing Income and Support Services is responsible for ensuring adoption of, and adherence to this framework and its associated processes.

The Housing Income Manager and Specialist Income Recovery and Court Coordinator are responsible for day-to-day operational management of the team. The Specialist Income Recovery and Court Coordinator is required to develop, implement, and maintain relevant guidance and processes for employees and managers.

All former tenant arrears staff are responsible for the operational aspect of the income collection service and will ensure there is compliance with relevant legislation and due regard for best practice.

All staff will be provided with the right skills, capacity, and resource to deal with debt recovery and sufficient time will be committed to ensure the income is collected consistently and effectively.

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