

Write Off Policy for Housing Debts

Including Former Tenant Arrears and Rechargeable Works Orders



Version: September 2020

Contents

1. [Purpose of Policy](#)
2. [Aims and Objectives](#)
3. [Case Administration \(former tenant arrears\)](#)
4. [Communication](#)
5. [Procedure](#)
6. [Legal Action](#)
7. [Former Tenants \(forwarding address known\)](#)
8. [Former Tenants \(forwarding address unknown\)](#)
9. [Deceased Tenants](#)
10. [Returned Correspondence](#)
11. [Further Recovery](#)
12. [Disputed Arrears](#)
13. [Performance Monitoring](#)
14. [Working with outside advice agencies](#)
15. [Tracing former Tenants](#)
16. [Bad and doubtful debt provision](#)
17. [Write Offs – When to write off Housing debt](#)
18. [Writing off Court costs](#)
19. [Write Offs and reporting](#)
20. [Arrears written back on](#)
21. [Implementation and Training](#)
22. [Equality and Diversity](#)
23. [Review](#)

1. Purpose of Policy

- 1.1 This policy refers to the collection of monies due from former council tenants of Dover District Council. The policy covers both residential rental arrears and rechargeable works and services orders for former tenants of the Council.
- 1.2 Debts owed by current tenants will not be written off.
- 1.3 Debts are placed in priority order when recovery action is taken as follows:
 - A. Current residential arrears
 - B. Court costs
 - C. Former tenant arrears
 - D. Rechargeable works orders (RWO's)

2. Aims and Objectives

- 2.1** Dover District Council aim to recover all monies due from former tenants with outstanding balances and from those who owe the authority sums of money due to rechargeable works or services that have been undertaken.
- 2.2** DDC seek to do this in the most efficient and cost-effective manner and will recommend debts for write off only where they are irrecoverable and within agreed parameters.
- 2.3** DDC will at all times:
- Take a professional, consistent and timely approach to recovery action;
 - Take positive action to prevent current tenant arrears, that may ultimately become former tenant arrears;
 - Ensure a fair and consistent approach that has regard to individual and exceptional circumstances;
 - Ensure that customers recognise that they have a responsibility to pay;
 - Aim to identify customers who can pay but won't, or who deliberately delay payment in order that appropriate recovery action can be taken promptly;
 - Actively encourage customers with arrears to contact us at all stages of the collection and recovery process;
 - Aim to help customers maximise their income and / or benefit entitlement;
 - Acknowledge the need to provide an effective service but, when necessary, that is sensitive to customer needs;
 - Ensure that all arrangements for payment reflect the level of arrears owed, as well as ability to pay;
 - Acknowledge the role of recognised money/debt advice agencies and work with these whenever possible.

3. Case Administration (Former Tenant Arrears)

- 3.1** DDC will ensure that adequate records and documentation relating to all former tenant debts are maintained for a period of 6 years.
- 3.2** As a minimum these records will include:
- The Tenancy Agreement;
 - The dates, cause and history of any arrears arising;
 - Dates of all actions taken, and correspondence sent (e.g. reminder notices) by DDC and those received from the debtor;
 - Dates and content of any verbal communication with the debtor;
 - Details of all attempts to trace the debtor including liaison with other council departments, East Kent Services, Civica, debt collection/tracing agents etc and the outcome of these enquiries
 - Details of any payment agreements made with the debtor together with details of compliance.
 - Dates and amounts of all payments received, together with details of any payments withdrawn such as 'refer to drawer cheques', etc;
 - The dates, sources and amounts of all other credits / debits such as housing benefit adjustments.

- Details of the reason for the rechargeable works order

The above information will be held electronically.

4. Communication

4.1 DDC will provide customers with clear and prompt information and guidance about the monies they are being asked to pay and the methods which will be applied to recover the debt. Written correspondence will be in plain English, avoiding the use of jargon, and will include:

- A full breakdown of the debt outstanding;
- The total amount and/or the instalments due and the date(s) payment is required by;
- How to make payment and where payments can be made;
- Contact telephone numbers for relevant DDC staff.
- Photographic evidence of why rechargeable works costs were raised.

5. Procedure (Former Tenant Arrears)

5.1 DDC recognise that former tenants' arrears (FTAs) together with monies owed in respect of rechargeable works are amongst the most difficult debts to collect.

5.2 The most effective way to manage FTAs is to take all possible steps to prevent them from arising in the first place. This will be achieved through efficient and effective management of current tenant arrears).

5.3 Particular attention will be given to ensuring that any arrears are collected on mutual exchange of tenancies, or on transferring to another property. DDC will maintain comprehensive documentary evidence in respect of all terminations, transfers and exchanges of tenancies, including information in respect of rent arrears and other debts legitimately due from the former tenant.

5.4 Former Tenant Arrears should therefore only arise due to:

- Abandonment of property: and
- Eviction;
- Termination of tenancy with arrears still outstanding
- Death of the tenant

5.5 The Housing Options teams will check all housing applications to identify whether the applicants have any outstanding housing related debt with the council(s). Any applicant for re-housing by DDC that has a former tenant debt will normally be required to clear this in full or to show that the outstanding debt is being paid regularly and has reduced considerably since their previous tenancy ended before they will be considered for re-housing.

5.6 Additionally, tenants seeking to mutually exchange or transfer outside of the DDC area must clear all outstanding arrears prior to a move taking place.

6. Legal Recovery Action

- 6.1** Legal action is rarely taken to recover former tenant debts based on cost and historic recovery success rates. This course of action may however be cost effective if the tenant's whereabouts are known and they are in employment, because an attachment of earnings order can be applied for. Consideration will always be given to the size of the debt, available options, and the cost effectiveness of pursuing legal action.

7. Former Tenants (with a known forwarding address)

- 7.1** DDC will firstly re-confirm the outstanding balance allowing for any Housing Benefit adjustments or direct payments from DWP for Universal Credit.
- 7.2** If telephone numbers are held the former tenant will be called and/or texted to make arrangements to clear the debt.
- 7.3** Payment arrangements will be based on the former tenant's ability to pay back the debt. The minimum amount that will be acceptable will be equivalent to the current DWP direct benefit deduction.
- 7.4** Letter to be sent out if no telephone number is known or no response is received to initial contact. If telephone numbers subsequently become available telephone/text contact is to be made and full records of all contact to be recorded.
- 7.5** If, despite all of the above, no contact or payment is made, the debt will be referred for write off.

8. Former tenants (forwarding address is unknown)

- 8.1** DDC will firstly re-confirm the outstanding balance allowing for any Housing Benefit.
- 8.2** If the total value of the former tenant's arrears/rechargeable works order debt is less than £50.00 this will be automatically written off, as uneconomical to pursue. If the debt is more than £50.01 the following process will be followed:

If no forwarding address is provided on the termination form and no information provided by the Housing Officer, if there is a number to call/text we will attempt to contact the tenant to get an address and then the update records and continue with the stages listed above (forwarding address known). Please refer to paragraph 9 - 'tracing former tenants' - if no forwarding address can be obtained.

9. Deceased tenants

- 9.1** When a tenant dies, a personal representative should be appointed who will settle debts from the estate (if funds are available). As a general rule, personal representatives are either:

- executors' where the deceased left a will; or
- 'administrators' where the deceased did not leave a will (died intestate).

The personal representative is required to distribute the estate within one year from the date of death.

- 9.2** DDC will seek to make a claim against a deceased ex-tenant's estate. However, the personal representatives of the deceased are likely to be close relatives / friends and must therefore be dealt with sensitively.
- 9.3** DDC will firstly re-confirm the outstanding balance allowing for any Housing Benefit. If the total value of the former tenant's arrears is less than £50.00 this will be automatically written off, as uneconomical to pursue. If the debt is more than £50.01 the following process will be followed.
- 9.4** If telephone numbers are available, we will call the personal representatives. If there are no phone numbers available, then a letter will be sent. We will request a copy of bank/building society statements to verify whether there is any money left in the estate to pay for any outstanding debts where the personal representative informs Officers there are insufficient funds.

10. Returned Correspondence

- 10.1** Where correspondence is returned by Royal Mail marked 'gone away' or 'addressee not known' the following action will be taken;
1. The reason for the correspondence return will be noted
 2. A trace will be completed using a tracing provider
 3. Update and continue the recovery process if traced.

11. Further Recovery Action

- 11.1** If, after exhausting all of the stages set out above, the arrears still remain outstanding, DDC will review each case individually to decide whether further recovery action would be cost effective.
- 11.2** For any debts over £50.01, one or more of the following recovery methods will be considered – please refer back to paragraph 5.4.1 for reference to relevant consideration:

The below would only be considered if we were aware the tenant was working and proved economical to pursue based on balance and tenants circumstances.

1. Money Claim (small claims) under £5,000;
2. Attachment to Earnings; and
3. Charging Order (a charge is placed on the debtor's property).
For debts over £300.00 - Referral to Debt Collection Agency - if after the first two attempts at recovery is unsuccessful or we are unable to trace tenants forwarding address. (using an external debt recovery company to collect debts may be an option)

11.3 Referral to a debt collection agency

Consideration will be given to the use (where appropriate) of debt collection agencies to recover former tenants' arrears/rechargeable works orders. Agencies used will be selected by DDC. They will be paid based on a percentage of the payment collected.

11.4 Agencies would only be used if after the first two attempts at recovery, the tenant does not engage or reach an agreement or we are unable to trace the debt. Debt collectors are not Court officials and do not have the same powers as bailiffs. Recovery action where cases are referred to debt collection agencies will involve them:

1. Writing to the former tenant(s) to request payment;
2. Telephone calls to request payment;
3. Visiting customers at their home to discuss payment of the arrears.

11.5 Consideration will also be given to the cost effectiveness of selling former tenant debts to a collection agency.

12. Disputed Arrears

12.1 Where a former tenant or their personal representative disputes the arrears due or a rechargeable works order raised, DDC will be responsible for managing the dispute and provide all necessary supporting information within 10 working days of the request. If this is not possible customers will be notified and provided with a revised date for resolution.

13. Performance Monitoring

13.1 Responsible Officers will manage all FTAs in accordance with this policy.

13.2 The Income Manager will monitor performance which will cover:

- Former Tenant Arrears total poundage outstanding;
- Payments received from former tenants;
- Write offs processed; and
- Write offs year to date.

13.3 The Income Manager will provide an analysis of debts that have been written off as and when requested by the finance team. Quarterly performance figures will be provided.

14. Working with outside advice agencies

14.1 Information about debt advice will be made available, especially where it is apparent that the customer is in severe financial difficulty. Officers will encourage customers to obtain specialist advice and help, which will include providing details of local and national free, debt and money

advice agencies.

14.2 Where a statutory Benefit potentially exists in relation to a particular debt, Officers will ensure the former tenant is made aware of such opportunities and encourage an application.

14.3 DDC will stress the importance of paying priority debts before non priority debts and will follow Citizens Advice Bureau guidance as follows:

Priority Debts	<ul style="list-style-type: none">• Mortgage or rent arrears• Fuel arrears i.e. gas, electric• Council Tax arrears• Court fines• Child support or maintenance• Income Tax or VAT arrears• TV Licence
Non Priority Debts	<ul style="list-style-type: none">• Former Tenant Arrears/rechargeable works orders• Benefits overpayments• Credit debts i.e. loans, overdrafts, hire purchase, credit cards• Student loans• Money borrowed from friends or family

15. Tracing former Tenants

15.1 In the event of a former tenant leaving their last known address without providing a forwarding address, or being unable to trace one using the process set out in paragraph 5.6.2, DDC may use various methods to trace the individual, including:

- Checking all records available to DDC
- Tracing the customer using tracing tools, such as Experian Citizen view;
- The use of external tracing agencies;
- Contacting other Local Authorities for former tenants who may have moved out of the area;

15.2 Tracing a former tenant can be expensive, especially if outside agencies are used, and does not guarantee any income. As such, the costs and necessary resources required will need to be carefully considered. (If a debt is passed to a collection agency, for collection this is part of the process)

16. Bad and Doubtful Debt Provision

16.1 DDC will ensure there is adequate provision for bad and doubtful debt. This is done in accordance with CIPFA Code of Practice on Local Authority Accounting in the United Kingdom – A statement of recommended practice.

17. Write offs - When to write off Housing debts

- 17.1 DDC recognises that it is important to consider the balance between recovering former tenant arrears and rechargeable works orders on former tenants, as effectively and efficiently as possible with the need to be fair and reasonable to the former tenant and tenants as a whole.
- 17.2 DDC will ensure that it takes all reasonable steps to recover arrears and will only recommend debts for write off when no further recovery action is practicable and cost effective.
- 17.3 DDC will only propose arrears for write off after three months, where the debt is non recoverable, uneconomical to recover, or we are unable to trace the customer (with the exception of deceased tenants, these would be written off once we receive confirmation of no funds in the tenants estate).

Arrears proposed for write off are likely to fall into the following Categories:

Non recoverable arrears	<ul style="list-style-type: none">• Customer is Bankrupt under a Debt Relief Order• Customer deceased and there is no funds in the Estate
Non-engagement	<ul style="list-style-type: none">• Customer will not engage to reach an arrangement or pay
Uneconomic al to pursue	<ul style="list-style-type: none">• Balances below £50.00
Unable to trace	<ul style="list-style-type: none">• Customer has absconded and we are unable to trace current address

Rechargeable Works Order - It is unlikely that DDC would write off the debt, unless there was a valid dispute.

18. Writing off Court costs

- 18.1 In addition to the rent debts and rechargeable works orders, DDC will seek to recover any Court costs that are legitimately due from any former tenant with arrears. Where it is established that the arrears are non-recoverable consideration be given to costs/fees being written off.
- 18.2 Authority to process and approve write offs for former tenants/court costs & rechargeable works orders
- 18.3 Credits on account will normally be refunded to customers. Where it is necessary to write off a credit on an account, the delegated authority lies with the Income Manager without the requirement of counter authority

though this is ratified by the Section 151 Officer.

18.4 All recommended write offs above £5,000 will be referred to the Council's Section 151 Officer for approval.

18.5 Authority to process and recommend write off on former tenant arrears are delegated as follows:

Write off Thresholds	Position of Authority	Counter Authority
Up to £50.00	Officer.	Not required. Uneconomical to pursue debt.
£50.01- £5000.00	Officer to make recommendations to Income Manager.	An audit of a percentage of write offs will be undertaken. Monthly report provided to Section 151 Officer for ratification.
£5,000.01 - £9,999	Income Manager to make recommendation to the Head of Finance and housing.	An audit of a percentage of write offs will be undertaken by QA/systems team. Monthly report provided to Section 151 Officer for ratification.
£10,000 to £20,000	Income Manager to make recommendation to Head of Finance and Housing.	Section 151 Officer.
Above £20,000	Income Manager to make recommendation to Head of Finance and Housing.	Section 151 Officer and referral to Cabinet.

19. Write Offs and reporting

19.1 Write off figures will be collated on a monthly basis by the Income Manager and will be reported quarterly.

19.2 In the unlikely event of any write offs over £10,000 they will be referred to

the Section 151 Officer to consider and authorise.

20. Arrears written back on

20.1 Any arrear that has been written off can, if appropriate, be written back on, subject to statute. The arrears may be written back on are as follows:

- Customer returned to area, where previously no trace e.g. If a former tenant applies for housing assistance and a debt has been written off, the debt will be written back on and every attempt made to collect it.
- A customer is declared bankrupt and a dividend is received. The write back will be the sum of the dividend received.
- A change in circumstances which has enabled recovery.
- Where arrears/debts are written off because a customer could not be traced, but they are subsequently found, the write off can be written back on and recovery action will continue. The fact that an account balance has been designated for 'write off' does not mean that it will never be recovered

21. Implementation and Training

21.1 This policy will be made available to all DDC staff dealing with income collection and recovery from former tenants. This will be reinforced with training and management supervision of all staff involved in collecting income.

21.2 Data Sharing

DDC as a Data Controller, collects information (personal data) in order to manage and support our relationship with our Customers, comply with legal obligations, improve our services and achieve our legitimate business aims. We are committed to complying with data protection legislation when handling customers' data. Customers have rights around their data, including the right to access their data, and to object to the way it is processed. For more information on how and why we process customer's data, and how Customers can exercise their rights, please refer to our Data Protection Policy here

<https://www.dover.gov.uk/Corporate-Information/PDF/Data-Protection-Policy.pdf>. Our privacy notice also provides information on how and why we process personal data, this is on our website at www.dover.gov.uk/privacy where you can find our corporate and housing service privacy notice.

22. Equality and Diversity

DDC is committed to equality and fairness. Equality is about ensuring people are treated fairly and given fair chances. It is also about ensuring

that people receive fair outcomes in the standard of service they receive from DDC. This incorporates everyone, regardless of their race, gender, age, religion or belief, sexual orientation and/or disability.

As an organisation, we provide a service to a wide range of people including some of the most disadvantaged sections of the community. DDC has a statutory and moral duty to ensure that it provides good quality services to all customers.

The main groups likely to be affected by discrimination and social disadvantage are:

- People with learning disabilities;
- People suffering from alcohol and substance abuse;
- People with literacy problems;
- People from different age groups;
- Disabled people (which can be those with mental illness, physical disability and sensory impairment;)
- People from black and minority ethnic (BME) communities;
- People who are transitioning or have undergone Gender Reassignment
- People who are targeted due to their Sexual orientation

This is not an exhaustive list but will help raise awareness about the issues within the organisation and the community.

23. Review of Policy

This policy will be reviewed every 3 years to ensure it remains valid, effective and relevant unless there is a substantial change in legislation which affects the ability to collect former tenant debts.

Other Policies and Procedures:

- Rent setting and Income Recovery Policy
- Income Recovery Procedures