

Epping Forest District Council

HOUSING DIRECTORATE STRATEGY ON
RENT ARREARS

1. Introduction

- 1.1 This Housing Directorate Strategy relates to the Council's approach to the recovery of rent arrears. The control of rent arrears is viewed by Housing as one of the key elements of its performance. This Strategy sets out how this element of the service is delivered, (in accordance with the County Court's Rent Arrears Pre-action Protocol), including the methods used for preventing and reducing arrears and for notifying tenants at an early stage.
- 1.2 Comprehensive systems are in place and are detailed later in the Strategy. The efficiency of these systems are confirmed by Housing being accredited with both the international quality standard of ISO 9001:2008 and the Customer Service Excellence award, for all of its services including rent arrears recovery.
- 1.3 Tenants are given ample opportunity to make arrangements for payment and are given advice on how to manage their debt. However, when all remedies have failed, the Council will not hesitate to take Bailiff or Court action in appropriate cases and to seek to gain possession of the property.
- 1.4 This Rent Arrears Strategy has been formulated in consultation with representatives of the Epping Forest District Tenants and Leaseholders Federation. The Strategy was considered and endorsed by the Council's Housing Scrutiny Panel on 27 January 2011 and approved by the Housing Portfolio Holder on 6 February 2011.

2. Background to Arrears Recovery

- 2.1 Housing views the control of current and former rent arrears as a key element of its performance, and will have a firm but fair approach to its tenants on this issue.
- 2.2 Rent arrears recovery is undertaken by staff in the two Area Housing Offices (north and south), and the Limes Farm Estate Office, which is a sub office of the Area Housing Office (south).
- 2.3 The Director of Housing chairs quarterly Customer Improvement Meetings with the appropriate Assistant Director of Housing and Managers to monitor performance on a number of areas, including the recovery of rent arrears, and to discuss policy and initiatives in order to maximise performance.
- 2.4 Area Housing Managers are responsible for the arrears performance of their Section, which they will monitor closely to ensure that all of their staff are working to the procedures.

- 2.5 Housing recognise that early identification and action in response to unpaid rent can prevent long-term difficulties for both the tenant and the Council.
- 2.6 The following table sets out the Council's past performance on rent arrears and former tenant arrears:

Rent Arrears & former tenant arrears collection				
Year	2006/07	2007/08	2008/09	2009/10
Rent arrears as a percentage of the annual debit	1.69	1.52	1.62	1.51
*Amount of former tenant arrears collected per annum	£119,000	£85,000	£60,000	£59,000

* The amount of former tenant arrears collected in 2006/2007 was unusually high due to the identification of tolerated trespasser accounts. Performance in this area is dependent upon the level of debts owed to the Council.

3. Coverage

This Housing Directorate Strategy covers the Council's;

- a) Prevention of current and former tenant rent arrears;
- b) Use of Bailiffs;
- c) Procedures for dealing with rent arrears recovery for both secure and Introductory Tenants, in accordance with the Rent Arrears Pre-action Protocol;
- d) The ways in which tenants are assisted in managing their debt;
- e) The approach taken with tenants in arrears who have special needs;
- f) The link between the Housing Directorate and the Benefits Division of Finance;
- g) Performance indicators;
- h) Review of the strategy; and
- i) Confidentiality

4. Relationships with other Documents

- 4.1 Rent arrears recovery forms part of the Council's overall Housing Strategy.
- 4.2 A booklet entitled Housing Appeals and Complaints sets out for all tenants the Council's policy in such matters.
- 4.3 The Council has a general Service Level Agreement with each of the 3 Citizens Advice Bureaux within the District.
- 4.4 The Council has adopted its Housing Charter, which sets out, in simple, clear and precise terms the Council's general approach to all its housing services. In addition, there are a number of agreed service standards which will be publicised setting out

our aims in all aspects of our “interfaces” with customers.

4.5 Section 2 of the Council’s Tenancy Agreement, states in respect of rent, and other charges:

a) The Tenancy is a weekly periodic Tenancy commencing and ending on any Monday. The rent is payable fortnightly in advance and two weeks inclusive rent shall be payable prior to the commencement of each fortnight;

b) The weekly net rent and/or service/support charges (if applicable) payable fortnightly may be altered on written Notice of no less than 4 weeks being given to the Tenant by the Council specifying the rent proposed;

c) The tenancy is subject to any housing benefit scheme that may be in force at any given time; and

d) If the Tenant’s rent is in arrears at any time the Council may at once serve the Tenant with a Notice of Seeking Possession and subsequently institute legal proceedings for recovery of the arrears and/or seek to regain possession of the Premises through the Court. The Council may take all other steps within the law to recover the debt outstanding.

4.6 The Council’s Standard Tenancy Agreement was reviewed during 2002 and the new Agreement came into force on 6 January 2003.

4.7 The Housing Directorate has detailed Work Instructions for all of its functions and rent arrears recovery is covered by these documents, which gives important guidance to staff.

4.8 Literature on rents, benefits, etc. are on display at both Area Housing Offices and the Limes Farm Office, and featured from time to time in relevant publications, (Housing News etc). All tenants have received a copy of the Tenant’s Handbook, which explains about all matters relating to their tenancy including rent payments and arrears. This literature is available in braille meeting the requirements of the National Royal Institute for the Blind. Large print documents can also be provided upon request.

5. Aims and Objectives

5.1 The aim of the Council’s Housing Directorate Strategy on Rent Arrears is:

“To keep outstanding current and former rent arrears to a minimum through an appropriate combination of preventative and remedial actions in a firm but fair manner”.

5.2 This aim will be met by:

a) Ensuring that current and former tenants are made aware of their rent arrears at an early stage, making every effort to ensure that tenants clear their debt;

b) Providing assistance, support and advice to tenants on managing their arrears and other debts;

- c) Complying with statutory requirements as detailed in Section 6 of this Strategy;
- d) Utilising the power of distraint in appropriate circumstances:
- e) Taking action through the Courts to recover possession of properties and/or outstanding debts; and
- f) Operating policies on the provision of discretionary housing services that penalise tenants who are in rent arrears.

6. Statutory Requirements

6.1 The relevant statutory requirements for recovery of rent arrears are as follows:

a) Housing Act 1985

- Notice of proceedings for possession or termination (Section 83)
- Grounds and orders for possession (Section 84)
- Variation of terms of tenancy (Section 102 & 3)
- Provision of information and consultation (Section 104)
- Consultation on matters of housing management (Section 105)
- Variation of rent (Section 102b)

b) Protection from Eviction Act 1977

- Requirement of landlord to apply to Court before regaining possession
- Any Notices served must give the tenant 28 days notice

c) Local Government Act 1972

- Valid service of Notice (Section 233)

d) Human Rights Act (Articles 6,8, and 14)

- Rights of a fair trial, respect for private family life, home and correspondence.

e) Data Protection Act 1998

- The protection and use of personal data held by the Council.

f) Civil Procedure Rules

- Rent Arrears Pre-action Protocol

g) Housing Act 1996

- Discretionary powers to operate an Introductory Tenancy Scheme for all new secure tenants

7. Client Consultation, Information & Involvement (Statutory Requirement)

7.1 The way in which tenants will be consulted, informed and involved with regard to the Council's policy on rent arrears recovery in accordance with the Housing Act 1985 is

as follows:

- a) Consultation with the Epping Forest Tenants and Leaseholders Federation
- b) Information to tenants in publications e.g. Housing News, Annual Report;
- c) Posters displayed throughout the district;
- d) Quarterly liaison meetings with the Citizens Advice Bureaux;
- e) One to one consultation with tenants;
- f) Changes in policy through The Cabinet or Housing Portfolio Holder; and
- g) Consultation under Part 1V Section 102/3 of the Housing Act 1985 to amend the standard Tenancy Agreement.

8. General Principles – Rent Arrears Recovery – Secure Tenants

8.1 Section 5 of this Housing Directorate Strategy sets out the aims and objectives to reduce rent arrears. This Section details the general approach taken and procedures, which are in place in order to combat the problem.

8.2 The Council has agreed the following measures be used to combat rent arrears;

a) Hard hitting posters are placed at appropriate locations throughout the district e.g. Information Desks, Libraries, Town Hall, CAB, etc.;

b) Older tenants (over 70 years of age) in arrears of rent are ineligible to apply for the internal decorations service, and the garden maintenance scheme;

Tenants have the option to appeal to the Housing Appeals and Review Panel against any decisions made under (b).

8.3 Members will be encouraged to work with officers and tenants on appropriate cases to prevent arrears.

8.4 Press releases will be issued at appropriate times to publicise the Council's approach on rent arrears.

8.5 Distraint (also called "distress") will be used in appropriate cases, whereby bailiffs would be instructed by the Council to remove certain goods from the ownership of the Tenant to be sold to pay off the debt.

8.6 All new tenants will be visited between the first 2 - 12 weeks of their tenancy commencement date by appointment. A vital part of this visit is to explain to new tenants the importance of keeping their rent account up to date, advising them of the different methods of payment (including direct debit), housing benefit, and the penalty for failing to pay their rent on time.

8.7 Should new tenants be in arrears in the early stages of their tenancies, officers will check to ascertain if a housing benefit application has been received. Following the signing of a consent form, Housing Management may liaise with the Benefits Division about their claim.

8.8 Annual rent balance statements, showing payments made during the year and their account balance will be sent out to tenants who have an arrear or a credit of £1 or more. All tenants are notified formally of annual rent increases.

8.9 Tenants will be contacted as soon as it is reasonably possible after they have fallen

into arrears to agree affordable sums for the tenant to pay based upon their income and expenditure.

- 8.10 Quarterly rent statements in a comprehensive format will be sent out to all tenants in arrears. In addition, when requested by the tenant, a statement will be provided from the date when the arrears first arose showing all amounts due, the dates and amount of all payments made.
- 8.11 If the Council is aware that the tenant has difficulty understanding any information, reasonable steps will be taken to ensure that the tenant understands their position. If the Council is aware that the tenant is particularly vulnerable it will ensure that the appropriate action is taken including home visits and liaison with relevant agencies.
- 8.12 If a tenant meets the appropriate criteria, the Council may arrange for arrears to be paid by the Department of Work and Pensions (DWP).
- 8.13 Rent arrears management will be a regular agenda item at each two-monthly staff Section Meetings at the Area Housing Offices. In addition, Housing has quarterly liaison meetings with the Benefits Division.
- 8.14 Area Housing Managers will set targets for each Housing Management Officer, and the Area Housing Office.
- 8.15 Tenants in arrears who have garages will be notified on a quarterly basis, explaining that the Council will serve a Notice to Quit in respect of the garage if their arrears are not cleared in full and maintained thereafter.
- 8.16 Possession proceedings for rent arrears are rarely issued against any tenant who has provided the Council with all the evidence to process a housing benefit claim, has a reasonable expectation of eligibility for housing benefit and has paid other sums not covered by housing benefit.
- 8.17 When tenants first miss a rent payment, a standard letter will be sent immediately notifying the tenant of the missed payment. This letter will advise the tenant to seek assistance from their Citizens Advice Bureau or any other relevant agency.
- 8.18 If the debt is not cleared within two weeks a second standard letter will be sent to the tenant explaining that if the arrear is not cleared then a Notice of Seeking Possession (NOSP) will be served.
- 8.19 Where there are persistent small amounts of arrears the Housing Management Officer may visit the tenant, request the tenant to visit the office, or telephone.
- 8.20 If the debt is not cleared and, generally, exceeds 4 weeks (net or gross) rent the tenant will be served with a Notice of Seeking Possession (NOSP) under Ground One (Schedule II of the Housing Act 1985) relating to rent arrears and other breaches of tenancy condition as follows;

"Rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed".
- 8.21 The Notice must be in a form prescribed by regulations made by the Secretary of State and specify the ground on which the court will be asked to make an order for

the possession of the dwelling house, or for the termination of the tenancy.

- 8.22 The NOSP will be served with an accompanying standard letter from the Area Housing Manager stressing the importance of them reading the Notice.
- 8.23 There are exceptional circumstances when the rent arrears process will be held in abeyance, e.g. older tenants, or tenants suffering from serious illness, etc. However, only the Area Housing Manager will exercise this discretion.
- 8.24 Most NOSP's will be served by hand, and the Housing Management Officer will take this opportunity to discuss the arrears with the tenant and attempt to agree an arrangement for the arrears to be settled in full within the 28 day Notice period. Tenants will be advised that if the Council applies to Court, they will incur costs.
- 8.25 The use of distraint will be considered at this stage. Distraint can only be used in cases prior to Court, and where the amount of arrear is relatively small. Distraint cannot be used after the tenancy has ended (i.e. for former tenant debt). All tenants will be given 7 days notice of distraint in writing giving them an opportunity to settle their debt prior to the bailiff being instructed.
- 8.26 If no contact is made at service of the NOSP, the Housing Management Officer will write and request tenants to come into the office at a pre-determined time. If they fail to attend, Housing Management Officers will telephone the tenant during the day to either arrange another appointment to visit or make an agreement to repay the debt by telephone. If contact is still not made then the tenant will be entered on a list for telephone calls out of hours. Every effort will be made to make contact. Should a written agreement be made (after serving the NOSP) to pay current rent plus a reasonable amount towards the arrears, proceedings will be postponed as long as the tenant keeps to the agreement.
- 8.27 Personalised letters will be used when appropriate to ensure that the procedure does not become too regimented, and to ensure cases are managed in accordance with each situation.
- 8.28 In addition to the use of bailiffs, at every opportunity tenants will be visited by Area Housing Managers, Assistant Area Housing Managers, and Housing Management Officers, to explore all possible means of arranging for the debt to be settled.
- 8.29 When the NOSP expires, should the arrear not be cleared or an agreement breached, even once, the Management Officer will write to the tenant advising that if payment is not received in full in 14 days, Court action will commence.
- 8.30 Every effort to secure payment of the arrear, or to make formal written arrangements, will be made throughout the recovery process.
- 8.31 The tenant will be advised of the date and time of any hearing and the order applied for. They will also be advised to attend as their home is at risk. If payment has not been made before the Court hearing and an order is granted, it will be carefully monitored for compliance. Where an order is broken an application to Court for a Warrant of Possession will be made immediately, and authorised by the Area Housing Manager.
- 8.32 The occupier will be sent a standard letter explaining that the case has been referred to Legal Services for eviction.

- 8.33 If a Warrant of Possession is obtained, appropriate arrangements to vacate will be made.
- 8.34 If the eviction is contested by the tenant, the Housing Management Officer will attend Court. If a Stay of Execution is granted, this order will be monitored for any further Breach.
- 8.35 If a further Breach occurs a Warrant of Execution will be applied for immediately.
- 8.36 Evictions will only be cancelled by officers on payment of all arrears and costs paid in cash at either the Civic Offices or the Area Housing Office (South). Building Society Cheques will be accepted.
- 8.37 If an agreement is made at the serving of the NOSP, which continues beyond 12 months, a further NOSP will be served to ensure the tenant continues to be under Notice. A further letter explaining this will be sent to the tenant.
- 8.38 Housing recognises that rent arrears will not be recovered by letter writing alone, officers at all levels will ensure that face to face contact with tenants is maximised through visits and interviews.
- 8.39 All available means will be used to recover arrears including; repossession actions, distress warrants, attachment of earnings, money judgement orders, and garnishee orders.
- 8.40 Area Housing Managers will attend occasional Court User Groups to ensure that the Courts take into account the Council's viewpoint.
- 8.41 In all matters relating to rent arrears, Housing will ensure that confidentiality is observed, and all staff will be discrete when dealing with tenant's problems.

9. Rent Arrears Recovery - Introductory Tenants

- 9.1 On 1 April 2006, the Council introduced an Introductory Tenancy Scheme for all new potentially secure tenants. Under the scheme, all new tenants are not secure until after a twelve-month "trial" period. During the twelve-month period, Introductory Tenants do not have the same statutory rights as secure tenants. Therefore, if the Council wished to seek possession of the property for any breach of a tenancy condition, (e.g. rent arrears) provided certain procedures are followed, the Introductory Tenancy could be terminated, following the issuing of a Notice of Proceedings, with the courts having no discretion but to grant possession provided the Council has followed the correct procedures.
- 9.2 Before the Council applies to the Court for possession, it will give the Introductory Tenant at least two warnings, then serve a Notice of Proceedings setting out the Council's decision to apply for such an order and the date before which the Council cannot apply for a court order, which must be at least four weeks from the date of service.
- 9.3 Introductory Tenants who are served with notice are advised that they may request a review of the decision to seek possession within 14 days of the notice being served. The Council will not proceed with an application for possession until it knows whether the Introductory Tenant intends to exercise their right to review. If a review is

requested, the Council will review its decision by way of an Officer Review Panel comprising the Assistant Director of Housing (Operations) and the Area Housing Manager neither of whom would have had any involvement in the original decision to seek possession. The Reviews would be a “paper” review unless the tenant informs the Council that they wish to have an oral hearing.

10 Action Plan

- 10.1 The following actions (some of which are contained in Section 8 and 9 of this Strategy) will be undertaken in the future by Housing to combat the problem of rent arrears;

Action	Lead Officer	Timescale	Resource Implications
Continue implementing improvements with information technology	Area Housing Managers	On-going	Existing Resources
Exploring the possibility of using more Baliff companies	Area Housing Managers	On-going	Existing Resources
Encouraging more tenants to pay their rent by direct debit	Housing Resources Manager	On-going	Existing Resources
Attend Court User Groups to put forward the Council’s viewpoint on arrears cases	Area Housing Managers	On-going	Existing Resources

11. Future Developments

11.1 The following “SWOT” analysis identifies the strengths, weaknesses, opportunities and threats for the areas covered by this Service Strategy:

<p>Strengths</p> <p>Knowledgeable and committed staff Policy and Procedures manual Integrated housing system Compliance with the ISO 9001:2000 Accreditation Customer Service Excellence Award Good relationships with tenants Good tenant consultation framework Two de-centralised Area Housing Offices Comprehensive performance monitoring Revised Tenancy Agreement (2003) Strong preventative measures in place</p>	<p>Weaknesses</p> <p>Staffing resources below the national and County average. Lenient approach of the Courts. Requirements of the rent arrears protocol delays the recovery process thereby increasing arrears</p>
<p>Opportunities</p>	<p>Threats</p>

12. Resourcing the Strategy

12.1 For housing management purposes the Epping Forest District is split into two areas, with one Area Housing Office based at The Broadway, Loughton in the south of the district and the other based at the Civic Offices, Epping.

12.2 The number of staff involved in covering all housing management duties in 2009/2010 are 16 full-time equivalent. Area Housing Managers are based at each of

the Area Housing Offices. Each of the Area Housing Offices has as an Assistant Manager, which includes the Limes Farm Estate Office, Chigwell.

12.3 All staff are included in the Performance Development Review process, whereby they have an annual interview to assess their own performance including a six-monthly update on progress. All new staff receives induction training and has access to a mentor. Recent training received by staff, which relates to this Strategy, is as follows:

- Court Skills Training
- Training as part of the Two-Monthly Section Meetings
- IT Training
- Staff Briefings on Various Matters
- Data Protection Training
- Recruitment and Selection Training for Managers
- Staff Development Review Training for Managers
- Managing Sickness Absence Training for Managers
- Health and Safety Training

12.4 The projection for the number of staff required to deliver the strategy over this year and the following 3 years is detailed in the following table:

Staff Resource Projections				
Posts	2009/2010	2010/11	2011/12	2012/13
Housing Management Staff	16	16	16	16

12.5 The following table details the estimated proportion of Housing Management, and other officers time, spent on arrears recovery for 2009/2010:

Staff Resources Breakdown	
Posts	FTE
Director of Housing	0.025
Assistant Director of Housing (Operations)	0.1
Area Housing Managers x 2	0.6
Assistant Area Housing Managers x 3	1.5
Housing Management Officers x 7.5	3.75
Housing Assistants x 3 FTE	0.3

Housing Client Manager	0.025
Total	6.3 FTE

13 Key Targets & Performance Monitoring

13.1 The performance for rent arrears recovery for 2009/2010 together with the proposed key targets for the following three years is detailed in the table below:

Key Targets & Performance				
Performance Indicator	2009/10	2010/11	2011/12	2012/13
	(Actual)	(Target)	(Target)	(Target)
Rent arrears as a percentage of the annual debit	1.51	1.50	1.50	1.50
Amount of former tenant arrears collected per annum	£59,000	£60,000	£60,000	£60,000

14. Reviewing the Strategy

14.1 The Strategy for Rent Arrears will be reviewed by the Housing Scrutiny Panel in consultation with the Eppng Forest Tenants and Leaseholders Federation in February 2014.