

Chesterfield Borough Council Rent income collection policy and procedure document

Policy statement

Chesterfield Borough Council (the Council) aims to promote a culture of stay and pay amongst its tenants.

We will maximise rent income, minimise rent arrears and enable tenants to maintain and sustain their tenancies.

Effective and efficient debt control is critical to:

- Ensure that quality services can be provided to all tenants
- Allow the Council to meet its objectives and financial commitments
- Assist tenants to manage their debts
- Prevent social and financial exclusion for tenants with debt

It is in the interests of the Council and tenants to ensure that rent is paid promptly and that difficulties are resolved wherever possible without court proceedings.

Pre-action contact with tenants, or their representatives, is actively encouraged and proactively undertaken to avoid the effects and added costs of court proceedings, in line with the requirements of the Pre-action Protocol for Possession Claims based on rent arrears, introduced in 2006.

We will:

- offer early, appropriate and accessible professional support and guidance to tenants to reduce rent arrears, including any entitlement to benefits;
- monitor levels of rent arrears and have early intervention mechanisms in place, which prevent rent arrears arising;
- take appropriate action in accordance with the level of rent arrears and the type of tenancy;
- aim to prevent homelessness arising and assist in the Council's wider strategic aims;

- avoid unnecessary court action;
- use eviction, as a last resort, where repayment arrangements have not been made, or are being repeatedly broken;
- provide a wide range of payment options;
- document all actions and conversations.

Diversity

Our approach to recovering rent arrears will be robust, fair and sensitive to the personal circumstances of individuals. We will take account of the Council's aim to promote equality of access to services for customers.

Administrative procedures

The first arrears contact will take place if an account is 2 weeks in arrears and £20 or more is owing.

The second arrears contact arises if the account is 3 weeks in arrears and £35 or more is owing.

The third arrears contact arises if the account is 4 weeks in arrears and £50 or more is owing.

Contact is critical to successful arrears management. Tenants will be encouraged to 'get in touch' at every opportunity. We will attempt to contact tenants in arrears by all available means including outside of normal office hours.

Housing Benefit entitlement will be investigated in all cases where the tenant has not already claimed. Tenants will be referred to the Council's Benefits Adviser for a Benefits health check, as appropriate.

Payment arrangements will reflect the ability of the debtor to pay and have regard to other debts such as fines, Council Tax, fuel bills and, in the case of former tenants, rent or mortgage repayments. The minimum will be weekly rent payable plus the prevailing acceptable sum towards arrears (£3.40 in 2011/12)

Unrealistic promises of payment will be challenged. Tenants will be warned against borrowing inappropriately to clear or consolidate debts.

Tenants experiencing multiple debt problems will be referred to advice agencies within the community.

Advice will be given about appropriate charitable offerings.

The Council will request an award of costs at Court. These will be added to the debt owed by the tenant.

Secure tenancies

A Notice Seeking Possession will not be served if a tenant has demonstrated a consistent, proportionate and regular willingness to pay the arrears.

For those paying full rent there will be £300 or more owing before a Notice is served. The arrears will be £100 and more than 13 weeks arrears before a Notice is served for those on full Housing Benefit.

Every effort will be made to see a tenant prior to any Court hearing.

It will be usual to apply to the County Court for an Order for Possession suspended on terms. However, the presenting officer may ask for an order on any other terms, appropriate to the circumstances.

A suspended possession order will be communicated to the tenant, along with the terms of the Court Order, and details of any further consequences arising from breach of the order.

Further action arising from breach of a Court Order will require prior consideration of any homelessness implications and any other information held about the tenant by the Housing Authority.

Arrears cases will be 'fast tracked' to the issue of a Warrant of Possession in the following circumstances:-

- it appears that the tenant has abandoned the property but it is deemed prudent to obtain an eviction warrant, or
- the tenant has paid no rent, has not responded to any contacts, is not known to be vulnerable, in priority need or on low income.

Appropriate authority will be sought prior to any eviction proceedings.

Deferring or stopping an eviction will only follow:

- payment of arrears in full, or

- new information coming to light, which, had it been available earlier, would have meant that proceedings would not have been authorised, or
- action suspended at Court on appeal.

Any tenant clearing arrears in full following an eviction date being set will be flagged. Subsequent non payment of rent will trigger early referral to Court, after only one letter of warning.

Temporary Licence Holders

Special authority will be obtained prior to service of a notice to quit for any tenant housed under the Homelessness provisions of the Housing Act 1996.

No further arrangement for payment will be entered into after a notice to quit has been served. This will be made plain to the tenant before the notice is served.

Introductory tenancies

Appropriate authority will be obtained prior to service of a Notice of Proceedings.

Consideration will be given to offering a 6 month extension.

No arrangement for payment will be entered into by officers after service of a Notice of Proceedings.

After the serving of a Notice of Proceedings, the tenant has the right to apply for a Review. The Review will consider if the tenancy is to continue on terms.

If no Review is requested or the decision to serve the Notice is upheld at Review, Court action will be taken for possession of the property.

If the arrears are paid in full and there are no other tenancy issues, the tenancy may continue.

Water rates

Special provisions apply to arrears attributable to water rates only.

Former tenant arrears

Tenants who end a tenancy are known as former tenants. If they leave any rent outstanding, these are known as former tenant arrears.

Former tenants are contacted and given an opportunity to clear their arrears in full or by instalments. If we know the whereabouts of a tenant but have been unable to make contact or reach agreement, the debt can be secured using Money Claims through the County Court. As with current tenants, taking legal action is the final sanction.

Debts may be written off in prescribed circumstances, once appropriate authorisations have been obtained. A written off debt may be resurrected should circumstances make it possible to charge the former tenant e.g. whereabouts become known.

Complaints

The Council operates a complaints procedure available to any tenant dissatisfied with the way their case has been handled.

A tenant can also dispute the amount of rent arrears or any repayment arrangement and receive a response from a senior officer, after a review of facts.

References

Pre-action Protocol for Possession Claims based on rent arrears
Prevailing Housing legislation
Equalities legislation