



To: Executive Councillor for Housing
Report by: Director of Customer & Community Services
Relevant scrutiny committee: Housing Committee 30/9/2014
Wards affected: All Wards

WRITE-OFF OF CURRENT AND FORMER TENANT ARREARS

Not a Key Decision

The background information used in the preparation of this report is exempted from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

1. Executive Summary

This report sets out the detail of six former tenant arrears cases together with a summary of the action taken to try to recover the debts.

2. Recommendations

The Executive Councillor is recommended:

- 2.1 To approve the six cases of former tenant arrears totalling £15,216.21 detailed in the attached appendix be written off, due to recovery activity being exhausted or being unable to recover the debt.

3. Background

- 3.1 The former tenant arrears cases have been subject to the standard rent arrears recovery process where applicable.
- 3.2 In April 2009, the UK Government introduced the Debt Relief Order, as a simplified, quicker and cheaper alternative to bankruptcy as a debt relief solution. Debt Relief Orders are run by The Insolvency Service in partnership with skilled debt advisers and do not involve the courts. A Debt Relief Order (DRO) enables debtors to repay their debt without the need to file for bankruptcy, which is a more costly solution. The current cost of a Debt Relief Order is £90.00, which must be paid in advance before an application will be considered.

3.3 Debt Relief Orders are suitable for people who cannot pay their debts and do not own their own home, have little surplus income and assets and have no prospect of the situation improving.

3.5 *Application Conditions of a Debt Relief Order*

- The debtor must be unable to repay their debts.
- The debtor must owe less than £15,000.
 - The debtor can own a car to the value of £1,000 but the total value of other assets must not exceed £300.
 - After taking away tax, national insurance contributions and normal household expenses, the debtors' disposable income must be no more than £50 a month.
 - The debtor must be domiciled (living) in England or Wales, or at some time in the last 3 years have been living or carrying on business in England or Wales.
 - The debtor must not have been subject to another DRO within the last 6 years.
 - The debtor must not be involved in another formal insolvency procedure at the time they apply.

Effects of a Debt Relief Order

3.6 Debt Relief Orders usually last for 12 months, however these can be extended and the individual is:

- Protected by enforcement action from many of their creditors
- Obligated to co-operate with the Official Receiver
- Expected to repay their creditors if their circumstances improve

3.7 While the DRO is in force the debt will be subject to a moratorium. During this time, creditors named on the order cannot take any legal action to recover their money without permission from the court.

3.8 Debtors should not make any payments towards any debt contained within their DRO but should continue to pay ongoing commitments such as rent and utility bills that occur after the DRO has been approved.

3.9 At the end of the moratorium period, if the debtor's circumstances have not changed, they will be freed from the debts that were included in their order, as they should be written off and creditors may not take any action for repayment of the debts.

- 3.10 If the debt forms part of a joint debt, action can be taken against any other joint debtor, unless they too are subject to a DRO or other insolvency process.
- 3.11 If the moratorium is extended, ended early, or if the DRO is cancelled, creditors will be sent notice by the official receiver.

Process

- 3.12 During the 12 months that the order is in place, City Homes transfer the debt to a sub account within the tenancy in order that arrears action is not undertaken against the amount specified.
- 3.13 At the end of the 12 month period if the debtors circumstances are unchanged, the council has no option but to write the debt off.
- 3.14 Any tenant who has had a DRO is unable to apply for another one within a 6-year period.

4. Implications

(a) Financial Implications

Provision for writing off of bad debts has been made in the Housing Revenue Account.

(b) Staffing Implications (if not covered in Consultations Section)

There are no staffing implications associated with this report.

(c) Equal Opportunities Implications

An Equalities Impact Assessment has not been undertaken in respect of this report, as each case has been individually considered prior to submission for write off.

(d) Environmental Implications

There are no environmental implications associated with this report.

(e) Procurement

There are no direct procurement implications associated with this report.

(f) **Consultation and communication**

This report considers an individual case for write off. A number of attempts will have been made to contact the tenant concerned prior to the preparation of this report.

Members and tenant and leaseholder representatives are reminded that they are welcome to spend time with City Homes officers to gain further insight into the arrears recovery and write off process.

(g) **Community Safety**

There are no environmental implications associated with this report.

5. Background Papers

The background papers used in the preparation of this report are exempt from publication as they contain information relating to the financial or business affairs of any particular person.

6. Appendices

The following appendix is included as part of this report:

- Appendix 1: Individual arrears case and action taken.

7. Inspection of Papers

If you have a query on the report please contact:

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Area Team	Ward	Amount	Action Taken To Recover Debt	Reason for Write-off
North	Arbury	£2,240.64	Activity Exhausted	The tenancy was for the period 24/11/2003 - 28/08/2005. The debt comprises arrears that accumulated over the period of the tenancy. The tenant was evicted from the property and recovery letters were sent to the last known address between Sept'05 & May'07. The tenant was in contact in 2009, and disputed the debt. an arrangement was made to pay £10 per fortnight. A total of £50 was received. The debt was subsequently passed to a tracing agent but was returned 'activity exhausted' in November 2013 and no further action has been taken to recover the debt.
North	East Chesterton	£2,308.72	U&O - No Formal Tenancy in place	The Use & Occupation was for the period 04/04/2011 - 26/08/2012. The debt comprises arrears that accumulated over the latter part of this period. The tenant was evicted from this same property for rent arrears, but hours after the eviction paid the total sum due and was permitted to stay in the property under 'Use and Occupation' to demonstrate a continued ability to pay before being given a new tenancy. Payments on the account were made initially, but in April 2012 Legal were instructed to begin the process to seek possession as payments had ceased. The court hearing date was the 11th June, and the eviction date was the 21st August. These debts cannot be chased as there was no formal tenancy agreement in place
North	Arbury	£2,766.42	U&O - No Formal Tenancy in place	The Use & Occupation was for the period 18/07/2011 - 17/06/2012. The debt comprises arrears that accumulated over this period. The tenant gave notice, but was allowed to remain in the property under 'Use & Occupation' due to a change in circumstances, whilst ability to pay was demonstrated. Payments on account were made initially to Nov 2011 & HB was applied to the account, but a notice seeking possession was issued when payments ceased. The court hearing date was the 14th May, and the eviction date was the 13th June. These debts cannot be chased as there is no formal tenancy agreement in place
North	Arbury	£2,296.96	Moved abroad - Bailiff cannot recover	The tenancy was for the period 02/08/2004 - 01/07/2012. The debt comprises arrears that accumulated over the period of the tenancy. The tenant was evicted from the property in 2012 and was believed to be living elsewhere at the time. The keys were returned in June 2012. It was claimed that the tenant was living abroad for medical reasons. The debt was passed to a tracing agent but was returned 'unable to recover' as the tenant was now living abroad. a forwarding address was located in Istanbul in May 2014 and no further action has been taken to recover the debt.
South	Arbury	£2,400.00	No recovery action for 6 years	The tenancy was for the period 29/09/1997 - 24/02/2002. The debt comprises arrears that accumulated over this period on this and previous temporary tenancies. The tenant was evicted from the most recent property in 2002 due to rent arrears. contact was made with the tenant throughout 2002, payments stopped in 2004 and a letter was sent to advise that it would be passed to a debt collection agency, which happened in January 2005. The tenant made some payments in early 2007 but no further payments have been made since. No contact has been made since, and this is now over 6 years old and the authority can no longer enforce recovery.
South	Trumpington	£3,203.47	No recovery action for 6 years	The tenancy was for the period 22/09/1997 - 10/06/2001. The debt comprises arrears that accumulated over the latter part of the tenancy after benefit ceased. The arrears were written off in 2003, but were re-instated when the tenant applied to be re-housed and began to make payments against the debt. Payments ceased in July 2006. The tenant had been rehoused in March 2006. The debt was transferred to the sub account of this tenancy in May 2007. No demand has been made in respect of this arrear since and no discussions are noted on the current tenancy that mention the previous debt. This is now over 6 years old and the authority can no longer enforce recovery.
Former Tenants		£15,216.21		

Overall Total **£15,216.21**